EXHIBIT B9

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UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

IN RE: JOHNSON &)

JOHNSON TALCUM POWDER)

PRODUCTS MARKETING)

SALES PRACTICES AND) MDL 16-2738

PRODUCT LIABILITY) (FLW)(LHG)

LITIGATION)

THIS DOCUMENT)

PERTAINS TO ALL CASES)

THURSDAY, APRIL 18, 2019

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Videotaped deposition of Christian Merlo, M.D., MPH, held at the offices of VENABLE LLP, 750 East Pratt Street, Suite 900, Baltimore, Maryland, commencing at 9:06 a.m., on the above date, before Carrie A. Campbell, Registered Diplomate Reporter and Certified Realtime Reporter.

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1	VIDEOGRAPHER: We are now on	1	this year that would make it more current?
2	the record.	2	A. There are probably a couple of
3	My name is Daniel Holmstock.	3	articles that I need to put in there.
4	I'm the videographer for Golkow	4	Q. Do any of them deal with
5	Litigation Services.	5	ovarian cancer?
6	Today's date is April 18, 2019,	6	A. They do not.
7	and the time on the video screen is	7	Q. Do any of them deal with talc?
8	9:06 a.m.	8	A. They do not.
9	This deposition is being held	9	Q. Okay. Get back to your CV in a
10	at the law offices of Venable LLP, 750	10	moment.
11	East Pratt Street, Suite 900,	11	You're a medical doctor?
12	Baltimore, Maryland, for the matter of	12	A. I am.
13	In Re: Johnson & Johnson Talcum Powder	13	Q. And you're board certified in
14	Products Marketing, Sales Practices	14	internal medicine?
15	and Products Liability Litigation, MDL	15	A. Internal medicine, pulmonary
16	Number 2738, pending before the United	16	medicine and critical care medicine.
17	States District Court for the Eastern	17	Q. Okay. And you are also an
18	District of New Jersey.	18	associate professor of medicine in the
19	Our deponent today is	19	Department of Pulmonary and Critical Care
20	Dr. Christian Merlo.	20	Medicine at Johns Hopkins University?
21	Counsel for the record will be	21	A. In the department of medicine
22	noted on the stenographic record for	22	and also in the department of epidemiology at
23	appearances.	23	the School of Public Health.
24	Our court reporter is Carrie	24	Q. I'll ask you about the second
25	Campbell, who will now administer the	25	later, but my specific question is that you
	Page 11		Page 13
1	oath to the witness.	1	are associate professor of medicine in the
2		2	Department of Pulmonary and Critical Care
3	CHRISTIAN MERLO, M.D., MPH,	3	Medicine at Johns Hopkins University?
4	of lawful age, having been first duly sworn	1 /1	A Dut my official title is on
		4	A. But my official title is an
5	to tell the truth, the whole truth and	5	associate professor of medicine in
6	to tell the truth, the whole truth and nothing but the truth, deposes and says on	5 6	associate professor of medicine in epidemiology.
6 7	to tell the truth, the whole truth and	5 6 7	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for
6 7 8	to tell the truth, the whole truth and nothing but the truth, deposes and says on behalf of the Plaintiffs, as follows:	5 6 7 8	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for identification.)
6 7 8 9	to tell the truth, the whole truth and nothing but the truth, deposes and says on behalf of the Plaintiffs, as follows: (Merlo Exhibit 1 marked for	5 6 7 8 9	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for identification.) QUESTIONS BY MR. TISI:
6 7 8 9 10	to tell the truth, the whole truth and nothing but the truth, deposes and says on behalf of the Plaintiffs, as follows:	5 6 7 8 9	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. I would like you show
6 7 8 9 10 11	to tell the truth, the whole truth and nothing but the truth, deposes and says on behalf of the Plaintiffs, as follows: (Merlo Exhibit 1 marked for identification.)	5 6 7 8 9 10 11	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. I would like you show you what I would like to have marked as
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6 7 8 9 10 11 12 13	to tell the truth, the whole truth and nothing but the truth, deposes and says on behalf of the Plaintiffs, as follows: (Merlo Exhibit 1 marked for identification.) DIRECT EXAMINATION QUESTIONS BY MR. TISI: Q. Please state your name.	5 6 7 8 9 10 11 12 13 14	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. I would like you show you what I would like to have marked as Exhibit Number 2. This is the MR. TISI: I'm sorry, did you
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6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	to tell the truth, the whole truth and nothing but the truth, deposes and says on behalf of the Plaintiffs, as follows: (Merlo Exhibit 1 marked for identification.) DIRECT EXAMINATION QUESTIONS BY MR. TISI: Q. Please state your name. A. My name is Christian Merlo. Q. And I've placed before you, Dr. Merlo, a copy of your CV as Exhibit 1. Do you see that? A. I do. Q. Is this your current CV? This was produced to us in connection with this litigation. A. Seems about right.	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	associate professor of medicine in epidemiology. (Merlo Exhibit 2 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. I would like you show you what I would like to have marked as Exhibit Number 2. This is the MR. TISI: I'm sorry, did you put an exhibit sticker on it? QUESTIONS BY MR. TISI: Q. This is the web page to the Johns Hopkins Division of Pulmonary and Critical Care Medicine. Do you see that? A. I see the exhibit, yes. Q. Okay. And who is Nadia Hansel? A. Nadia Hansel is our current
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	Page 14		Page 16
1	Q. She basically runs your	1	care of patients like that.
2	division?	2	Q. Okay. So I'm sorry. I
3	A. Well, she's part of the crew	3	didn't mean to interrupt you.
4	that runs the division, but she's our	4	So other than treating the side
5	division director.	5	effects that perhaps might occur in the
6	Q. Okay. And did you see where it	6	context of a patient who has gynecologic
7	describes on the second paragraph it	7	cancers, people with ovarian cancer typically
8	describes the scope of conditions treated in	8	are treated by oncologists; is that true?
9	the department, Division of Pulmonary and	9	Primarily?
10	Critical Care Medicine?	10	A. Again, if we're talking about
11	A. I see that paragraph, yes.	11	oncologic therapy, yes, they would be
12	Q. Let me read it for the record.	12	traditionally treated by oncologists.
13	It says, "We hold clinical and	13	Q. You're what's called an
14	research expertise in a broad range of	14	associate professor?
15	diseases, including asthma, COPD, critical	15	A. I am an associate professor.
16	care, cystic fibrosis, interstitial lung	16	Q. Okay. And just to follow up on
17	disease, lung cancer, lung transplantation,	17	the last question, you're not board certified
18	neuromuscular disease, pulmonary	18	in oncology, are you?
19	hypertension, sarcoidosis and sleep	19	A. I'm not.
20	medicine."	20	Q. Do you have tenure?
21	Do you see that?	21	A. Tenure is a tricky thing at
22	A. I do.	22	Hopkins. There's not really a full
23	Q. Does the Johns Hopkins Division	23	definition of it.
24	of Pulmonary and Critical Care Medicine	24	The usual definition is if
25	provide primary care treatment for	25	you're asked to stay after an instructor, the
	Page 15		Page 17
1	Page 15 gynecologic cancers?	1	Page 17 institution is committed to keeping you here.
1 2		1 2	institution is committed to keeping you here. Q. Okay.
	gynecologic cancers?		institution is committed to keeping you here.
2	gynecologic cancers? A. I think you'd have to define primary care treatment. Q. Yes.	2 3 4	institution is committed to keeping you here. Q. Okay. A. But there's no contract that one signs or that one gets saying "you can
2	gynecologic cancers? A. I think you'd have to define primary care treatment. Q. Yes. A. We do have an oncologic center	2 3	institution is committed to keeping you here. Q. Okay. A. But there's no contract that one signs or that one gets saying "you can stay here forever."
2 3 4	gynecologic cancers? A. I think you'd have to define primary care treatment. Q. Yes. A. We do have an oncologic center where we take care of many patients who are	2 3 4 5 6	institution is committed to keeping you here. Q. Okay. A. But there's no contract that one signs or that one gets saying "you can stay here forever." Q. You're not a full professor?
2 3 4 5	gynecologic cancers? A. I think you'd have to define primary care treatment. Q. Yes. A. We do have an oncologic center where we take care of many patients who are very, very sick with cancers, and some of	2 3 4 5 6 7	institution is committed to keeping you here. Q. Okay. A. But there's no contract that one signs or that one gets saying "you can stay here forever." Q. You're not a full professor? A. I am not a full professor.
2 3 4 5 6 7 8	gynecologic cancers? A. I think you'd have to define primary care treatment. Q. Yes. A. We do have an oncologic center where we take care of many patients who are very, very sick with cancers, and some of those involve gynecologic cancers, and we are	2 3 4 5 6 7 8	institution is committed to keeping you here. Q. Okay. A. But there's no contract that one signs or that one gets saying "you can stay here forever." Q. You're not a full professor? A. I am not a full professor. Q. And your expertise is critical
2 3 4 5 6 7	gynecologic cancers? A. I think you'd have to define primary care treatment. Q. Yes. A. We do have an oncologic center where we take care of many patients who are very, very sick with cancers, and some of those involve gynecologic cancers, and we are the primary caregiver in our onc ICU.	2 3 4 5 6 7 8	institution is committed to keeping you here. Q. Okay. A. But there's no contract that one signs or that one gets saying "you can stay here forever." Q. You're not a full professor? A. I am not a full professor.
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Page 18 Page 20 1 and a broad range of pulmonary 1 Do you see that? 2 medicine, a broad range of critical 2 I do. 3 care medicine as well as lung 3 Q. And you identify, if I'm reading correctly, 79 peer-reviewed papers? 4 4 transplantation. So I'm not sure where you got 5 A. Seems about right. 5 6 Do any of your peer-reviewed 6 that from, but if you show me 7 papers deal with gynecologic cancers? 7 something I can --QUESTIONS BY MR. TISI: 8 8 A. There's one paper where we look 9 Q. We'll do that. 9 at the risk of malignancy after lung 10 transplantation, and I believe we looked at 10 I think you mentioned you don't hold yourself out as an expert in oncology, certain -- I have to go back and look at the 11 11 12 correct? 12 paper, but I believe we looked at all sorts 13 MS. MILLER: Objection. 13 of cancers, and gynecologic cancers may have 14 THE WITNESS: I think what I 14 been in there as well. 15 said before is I do have a broad range 15 Q. But the focus of the paper was 16 of experience in taking care of 16 the consequences of lung transplantation, 17 oncologic patients in our oncology 17 correct? ICU, so I do consider myself an expert 18 18 A. The risk of malignancy after 19 in the intensive care unit care for 19 lung transplantation. patients with oncologic disease. 20 20 Q. Do any of them deal 21 21 QUESTIONS BY MR. TISI: specifically with ovarian cancer and its 22 Q. Okay. Different question, 22 causes? 23 23 however. A. No. 24 Q. Do any of them deal with talcum 24 Do you hold yourself out to 25 powder products? 25 your colleagues as an expert -- as a cancer Page 19 Page 21 1 1 expert? A. Excuse me. No. 2 2 MS. MILLER: Objection. Q. Do any of them deal with 3 THE WITNESS: I'm going to have 3 asbestos? to say the same thing, because part of 4 4 A. No. 5 5 cancer does deal with patients who get Q. In fact, you understand in this very, very, very sick. And as a 6 case that there is a claim that there is 6 7 7 group, we have several in our group asbestos contamination or asbestos included 8 8 who attend in our oncology ICU, and in talcum powder products, correct? 9 9 I'm one of them, and I do have MS. MILLER: Objection. 10 specific expertise in that aspect of 10 THE WITNESS: I wasn't asked to 11 oncology. 11 give an opinion on asbestos in this QUESTIONS BY MR. TISI: 12 12 case. 13 Q. And you are not board certified 13 **QUESTIONS BY MR. TISI:** 14 in oncology, however? 14 Q. Okay. And I understand that, 15 A. I believe I said I wasn't. 15 and that was going to be my question. So I'm going to ask you that you -- so we don't run 16 Q. And you're not a gynecologist? 16 17 A. I'm not a gynecologist. 17 into problems here, I'm going to ask that you 18 Q. You're not a toxicologist? 18 listen to my question. Okay? 19 I am not a toxicologist. 19 Do you understand that there is A. 20 You're not a mineralogist? 20 an allegation in this case -- and if you O. I'm not a mineralogist. 21 don't have an understanding, that's fine --21 A. 22 that there is asbestos in talc -- Johnson & 22 Turning back to your CV, 23 Exhibit 1, page 2, you have a section 23 Johnson's talcum powder products? entitled "Peer Review, Original Science 24 24 MS. MILLER: Objection. 25 Publications." 25 MR. LOCKE: Objection.

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Page 22 Page 24 1 THE WITNESS: Again, I wasn't 1 QUESTIONS BY MR. TISI: 2 asked to give an opinion about 2 Q. Yes. 3 3 Were you asked to provide an asbestos. QUESTIONS BY MR. TISI: 4 opinion as to whether or not the presence of 4 5 asbestos in talcum powder products is a 5 Q. I didn't ask whether you were 6 6 asked to give opinions. biologically plausible mechanism for causing 7 Do you have any understanding ovarian cancer? 7 8 if that's part of the record in this case? 8 MS. MILLER: Objection. 9 MS. MILLER: Same objections. 9 MR. LOCKE: Objection. MR. LOCKE: Objection. 10 THE WITNESS: I was asked to 10 QUESTIONS BY MR. TISI: provide an opinion on talcum powder 11 11 12 O. Okay. That's fine. 12 products. And my opinion, based on 13 So again, I'm going to ask you 13 the epidemiologic literature, is that there is no causal association. 14 to listen to my question. 14 15 So you're not offering an 15 So whatever is in talcum powder 16 opinion as to whether or not talc -- the 16 products would have come out in the presence or -- the presence of asbestos 17 17 literature. provides a biologically plausible mechanism 18 QUESTIONS BY MR. TISI: 18 19 for talcum powder product causing ovarian 19 Q. Okay. Would it be fair to say 20 20 you've never published any commentary or cancer? 21 So I have not reviewed the 21 review of the literature on ovarian cancer A. 22 literature specifically about asbestos. I 22 and its causes generally? I apologize. 23 was not asked to provide an opinion about 23 A. I have never published a review 24 24 asbestos. on ovarian cancer. 25 25 Q. Okay. Q. Have you published a review on Page 23 Page 25 1 However, if asbestos was 1 any cancer? 2 present at all in a sufficient dose within 2 A. We have a review in press --3 talcum powder products, that would have come 3 sorry, in submission on malignancies after out in the epidemiologic literature, which it 4 lung transplantation. 4 5 5 didn't. Q. Does it focus on whether or not 6 6 Okay. talcum powder products is a risk factor for Q. 7 7 Because the epidemiology shows ovarian cancer? A. 8 that there is not a causal association 8 A. It does not. 9 between talcum powder and ovarian cancer. 9 Q. Have you ever published a 10 MR. TISI: I'm going to move to 10 commentary or review on the causes of ovarian 11 strike the answer as nonresponsive. 11 cancer? 12 QUESTIONS BY MR. TISI: 12 A. I have not. Q. My question was: Were you 13 Q. Have you published a commentary 13 asked to offer a -- by the way, I'm not 14 or review on talcum powder products and its 14 getting any -- I said -- my question was: 15 15 safety? 16 Did you -- were you asked whether or not the 16 A. I have not. presence of asbestos would provide a 17 Q. Have you published any 17 biologically plausible mechanism for talcum commentary or review that deal with lifestyle 18 18 powder products causing ovarian cancer? 19 or environmental cause of disease? 19 20 The question is either yes or 20 MS. MILLER: Objection. THE WITNESS: That's a pretty 21 21 no. 22 MR. LOCKE: Objection. 22 broad question. 23 THE WITNESS: Can you ask that 23 QUESTIONS BY MR. TISI: 24 24 question again? Q. It is. 25 25 I mean, you have my CV here,

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Page 26 Page 28 1 and my clinical and research experience has 1 continue. So that environmental exposure can 2 dealt with epidemiology. And the 2 lead to an outcome over time. 3 epidemiology -- epidemiology usually is the 3 Q. But did you study the study of an exposure and how it relates to an 4 4 relationship between the exposure and the 5 outcome, and most of my papers and research 5 outcome, or was it primarily focused on lung has focused on exposures and how they lead to б 6 transplant? 7 7 outcomes. A. Well, I --8 Q. So what exposures, 8 MS. MILLER: Objection. 9 environmental or lifestyle exposures, have 9 QUESTIONS BY MR. TISI: 10 you investigated as related to what diseases? 10 Q. Let me rephrase the question. 11 MS. MILLER: Objection. 11 Let me withdraw and rephrase the question. THE WITNESS: Well, you'd have Did you do any causation 12 12 13 to get a little more specific about 13 analysis, including applying the Bradford what diseases we're talking about. Hill factors, to any exposure and any cancer 14 14 15 **OUESTIONS BY MR. TISI:** 15 in any of your publications? 16 Q. So my question was a broad one, 16 A. So in general, when a study is performed, we try to do either a Bradford 17 because I don't see anything in your 17 published literature that falls in this 18 Hill or different aspects of Bradford Hill to 18 look at strength of associations or look at 19 category, but it may just be that I missed 19 20 20 specificity, to look at consistency, to look 21 Do you have any articles which 21 at dose response. Sometimes it's available; 22 deal with the relationship between lifestyle 22 sometimes it's not. and environmental factors and any kind of 23 23 I think it's a -- it's a --24 24 it's a framework that is often used in these cancer? 25 25 A. That's a different question. papers and in these studies, but it's not Page 27 Page 29 Okay. So the answer would be? 1 1 necessarily the only thing that's done in Well, I would have to say that 2 2 them. 3 the risk of malignancy after lung 3 O. I understand. 4 transplantation does deal with that. 4 But if I looked at -- and I 5 5 Q. Is lung transplantation an appreciate that. These may touch on aspects 6 environmental or lifestyle? 6 of Brad Hill -- the Bradford Hill guidelines. 7 7 MS. MILLER: Objection. My question is: Did you ever, 8 THE WITNESS: So again, that's 8 in any of these papers, synthesize all of the 9 9 a pretty broad question. It can be -medical and scientific information available 10 QUESTIONS BY MR. TISI: 10 in order to do a Bradford Hill, complete 11 Bradford Hill, analysis of the relationship 11 Q. Okay. 12 between an exposure and a disease? 12 A. -- and it depends, because a MS. MILLER: Objection. lung transplant could be done for someone who 13 13 is born with a disease, say like cystic 14 THE WITNESS: Well, that's a 14 15 very, very, very broad question. 15 fibrosis, a genetic disease, or a lung 16 transplantation could be performed because 16 QUESTIONS BY MR. TISI: 17 someone has emphysema because they smoked all 17 Q. Uh-huh. their life. 18 I think that there are certain 18 19 papers in my CV that -- studies that we've 19 And so the environmental 20 done. It's the only study available that we 20 exposure and the personal health exposure is 21 did. 21 very, very different in those two 22 Okay. 22 populations. O. So, you know, it's impossible 23 Someone who's smoking may 23 to synthesize everything that's in the 24 smoke -- continue to smoke after their lung 24 25 transplant. It's not advised, but they may 25 medical literature if it's the only study

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	Page 30		Page 32
1	that's done.	1	where you identified a risk factor for a
2	Q. Okay. So if I it wouldn't	2	disease?
3	be surprising if I looked at all these papers	3	A. I can.
4	and the word "Bradford Hill" does not appear	4	I mean, one of the first
5	in any of them?	5	studies that we did was to look at the risk
6	A. That wouldn't be something that	6	factors for developing resistant bacteria in
7	would appear	7	patients with cystic fibrosis.
8	Q. Okay.	8	Q. Okay. In that context, did you
9	A normally in a paper like	9	apply the Bradford Hill guidelines?
10	this.	10	MS. MILLER: Objection.
11	Q. Do any of these 78, 79 papers	11	THE WITNESS: Again, that's not
12	purport to provide any guidance or discussion	12	really something that would have been
13	of the definition or how to apply the	13	done in that study.
14	Bradford Hill criteria, a theoretic paper,	14	QUESTIONS BY MR. TISI:
15	for example?	15	Q. Okay.
16	MS. MILLER: Objection.	16	A. There's a there's a large
17	THE WITNESS: I don't have any	17	epidemiologic data set that the Cystic
18	theoretical papers describing a	18	Fibrosis Foundation has, and we utilized that
19	Bradford Hill analysis.	19	to identify factors that we thought might be
20	QUESTIONS BY MR. TISI:	20	important in seeing if those factors led to
21	Q. Okay. So just this is a	21	this resistant organism in that population.
22	slightly different question than before.	22	(Merlo Exhibit 3 marked for
23	Have you ever published	23	identification.)
24	research aimed at elucidating a possible	24	QUESTIONS BY MR. TISI:
25	causation between a putative risk factor and	25	Q. I'm going to mark your report
	Page 31		Page 33
1	Page 31 disease?	1	Page 33 in this case.
1 2		1 2	
	disease?	1	in this case.
2	disease? A. Well, I think that can you	2	in this case. You issued a report in the
2	disease? A. Well, I think that can you ask that again?	2 3	in this case. You issued a report in the talcum powder products litigation?
2 3 4	disease? A. Well, I think that can you ask that again? Q. Yes.	2 3 4	in this case. You issued a report in the talcum powder products litigation? A. I wrote a report.
2 3 4 5	disease? A. Well, I think that can you ask that again? Q. Yes. Have you ever published	2 3 4 5	in this case. You issued a report in the talcum powder products litigation? A. I wrote a report. Q. Yes.
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2 3 4 5 6 7 8	disease? A. Well, I think that can you ask that again? Q. Yes. Have you ever published research aimed at elucidating possible causation between a putative risk factor and a disease?	2 3 4 5 6 7 8	in this case. You issued a report in the talcum powder products litigation? A. I wrote a report. Q. Yes. A. Yes, I did. Q. Marked as Exhibit Number 3. A. Thank you.
2 3 4 5 6 7 8	disease? A. Well, I think that can you ask that again? Q. Yes. Have you ever published research aimed at elucidating possible causation between a putative risk factor and a disease? MS. MILLER: I'm objecting.	2 3 4 5 6 7 8 9	in this case. You issued a report in the talcum powder products litigation? A. I wrote a report. Q. Yes. A. Yes, I did. Q. Marked as Exhibit Number 3. A. Thank you. Q. Uh-huh.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	disease? A. Well, I think that can you ask that again? Q. Yes. Have you ever published research aimed at elucidating possible causation between a putative risk factor and a disease? MS. MILLER: I'm objecting. Objection. THE WITNESS: So it's not we don't really approach epidemiologic studies trying to show causation with risk factors. Sometimes there are studies that are that we do just to identify risk factors. And then once risk factors are identified, then we could do follow-up studies to see if they are actual factors or exposures that lead to a certain outcome. Sometimes that takes multiple	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	in this case. You issued a report in the talcum powder products litigation? A. I wrote a report. Q. Yes. A. Yes, I did. Q. Marked as Exhibit Number 3. A. Thank you. Q. Uh-huh. I think we've also been provided a supplemental materials reviewed and considered paper which I'll mark as 3A, which I assume is a supplement to your report. (Merlo Exhibit 3A marked for identification.) QUESTIONS BY MR. TISI: Q. Is this your report in this case, and are these the supplemental materials you reviewed as of today? A. This looks about correct. Q. Okay. Does this contain all
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	Page 34		Page 36
1	THE WITNESS: From the from	1	MS. MILLER: Objection.
2	the items that I've reviewed thus far.	2	THE WITNESS: I wouldn't say it
3	There may be other things that come up	3	that way.
4	in the literature, there may be other	4	QUESTIONS BY MR. TISI:
5	reports that are out, and I would like	5	Q. I understand you wouldn't say
6	to review those and	6	it that way, but in concept.
7	QUESTIONS BY MR. TISI:	7	A. In concept.
8	Q. But as of today, as of today,	8	That's the concept of all of
9	this is these are your opinions and these	9	those articles, or at least the majority of
10	are the bases of your opinions, correct?	10	them, that we're looking for we're looking
11	A. They are.	11	at an outcome, and we're looking for an
12	Q. Okay. Go to page 30 of your	12	exposure to see if that exposure leads to an
13	report, if you would. The second sentence of	13	outcome.
14	your report says, "While there is no single	14	And there are considerations
15	method for undertaking a causal assessment	15	that we consciously or subconsciously "we"
16	based on epidemiology, the criteria	16	meaning my research team and myself
17	formulated by Austin Bradford Hill are often	17	consciously and subconsciously
18	used and are considered the gold standard for	18	considerations that Bradford Hill put forth
19	evaluating causation once an association has	19	that we apply in there.
20	been identified."	20	Now, is it stated? No, but it
21	Do you see that?	21	wouldn't be stated in the papers. The
22	A. I do.	22	medical literature is not written that like
23	Q. Can you point to any articles	23	that.
24	on your CV where you applied the gold	24	Q. Okay. You mentioned and you
25	standard articulated on page 30 of your	25	give an example in your report; we're going
	Page 35		Page 37
1	report?	1	to talk about it later primary pulmonary
2	MS. MILLER: Objection.	2	hypertension and anorexigens.
3	THE WITNESS: Well, again, most	3	Do you remember the IPPHS
4	of these articles are epidemiologic	4	study?
5			
	studies looking at an exposure and an	5	A. I do.
6	outcome.	5 6	A. I do.Q. Does, in your opinion, exposure
	outcome. Sometimes there are Bradford		A. I do.
6 7 8	outcome. Sometimes there are Bradford Hill considerations that are	6 7 8	A. I do. Q. Does, in your opinion, exposure to anorexigens cause pulmonary hypertension, primary pulmonary hypertension?
6 7 8 9	outcome. Sometimes there are Bradford	6 7 8 9	A. I do. Q. Does, in your opinion, exposure to anorexigens cause pulmonary hypertension, primary pulmonary hypertension? A. The opinion of the medical
6 7 8 9 10	outcome. Sometimes there are Bradford Hill considerations that are available, and sometimes there are not.	6 7 8 9 10	A. I do. Q. Does, in your opinion, exposure to anorexigens cause pulmonary hypertension, primary pulmonary hypertension? A. The opinion of the medical community and part of that is that a
6 7 8 9 10 11	outcome. Sometimes there are Bradford Hill considerations that are available, and sometimes there are not. QUESTIONS BY MR. TISI:	6 7 8 9 10 11	A. I do. Q. Does, in your opinion, exposure to anorexigens cause pulmonary hypertension, primary pulmonary hypertension? A. The opinion of the medical community and part of that is that a significant exposure over a significant
6 7 8 9 10 11	outcome. Sometimes there are Bradford Hill considerations that are available, and sometimes there are not. QUESTIONS BY MR. TISI: Q. But whether they are I'm	6 7 8 9 10 11 12	A. I do. Q. Does, in your opinion, exposure to anorexigens cause pulmonary hypertension, primary pulmonary hypertension? A. The opinion of the medical community and part of that is that a significant exposure over a significant amount of time with certain specific
6 7 8 9 10 11 12	outcome. Sometimes there are Bradford Hill considerations that are available, and sometimes there are not. QUESTIONS BY MR. TISI: Q. But whether they are I'm sorry, go ahead.	6 7 8 9 10 11 12 13	A. I do. Q. Does, in your opinion, exposure to anorexigens cause pulmonary hypertension, primary pulmonary hypertension? A. The opinion of the medical community and part of that is that a significant exposure over a significant amount of time with certain specific anorexigens is associated with pulmonary
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10 (Pages 34 to 37)

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	Dama 20		Dama 40
_	Page 38		Page 40
1	QUESTIONS BY MR. TISI:	1	hypertension expert, so if you'd like to
2	Q. But I'm using the word "cause,"	2	discuss that, I would need to review the
3	so	3	medical literature.
4	A. And based on the medical	4	Q. Okay.
5	literature and based on clinical experience,	5	A. I can't agree or disagree with
6	if we're talking about those two anorexigens,	6	you.
7	the opinion of the medical community is that	7	Q. Well, you're not an ovarian
8	those cause primary pulmonary hypertension.	8	cancer expert, are you?
9	Q. Okay. Is that your opinion?	9	MR. LOCKE: Objection.
10	A. Yes.	10	THE WITNESS: I think I
11	Q. Okay. And we'll talk about it	11	answered that before.
12	again, but there was only one study,	12	QUESTIONS BY MR. TISI:
13	epidemiologic study, the IPPHS study,	13	Q. If you're not a primary
14	correct?	14	pulmonary hypertension expert, and that's a
15	A. You'd have to show me what	15	
		I	lung disease, are you a do you consider
16	you're referring to so we can look at it.	16	yourself an ovarian cancer expert?
17	Q. Yeah, it's the study by	17	MR. LOCKE: Objection.
18	Abenhaim. I believe it's footnote 77 of your	18	THE WITNESS: And what I said
19	report.	19	before is that there are certain
20	You know that study, don't you?	20	aspects of cancer that I do consider
21	A. I referenced it, but if you'd	21	myself an expert, and that is the care
22	like to discuss it	22	of patients who have cancer in the
23	Q. I'm not going to discuss	23	intensive care unit.
24	A I'd like to see it in front	24	QUESTIONS BY MR. TISI:
25	of me to discuss it.	25	Q. Okay. Do you hold yourself out
		1	
	Page 39		Page 41
1	Q. I will discuss it later and	1	Page 41 to your colleagues as an expert in ovarian
2	Q. I will discuss it later and I'll I will discuss it later, but I'm	1 2	
	Q. I will discuss it later and		to your colleagues as an expert in ovarian
2	Q. I will discuss it later and I'll I will discuss it later, but I'm	2	to your colleagues as an expert in ovarian cancer?
2	Q. I will discuss it later and I'll I will discuss it later, but I'm asking you: Do you know that there was only	2 3	to your colleagues as an expert in ovarian cancer? MS. MILLER: Objection.
2 3 4	Q. I will discuss it later and I'll I will discuss it later, but I'm asking you: Do you know that there was only one study, epidemiologic study, performed?	2 3 4	to your colleagues as an expert in ovarian cancer? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I'm going to have
2 3 4 5	Q. I will discuss it later and I'll I will discuss it later, but I'm asking you: Do you know that there was only one study, epidemiologic study, performed? MS. MILLER: Objection. THE WITNESS: I'm not aware of	2 3 4 5	to your colleagues as an expert in ovarian cancer? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I'm going to have to answer that very similarly because
2 3 4 5 6 7	Q. I will discuss it later and I'll I will discuss it later, but I'm asking you: Do you know that there was only one study, epidemiologic study, performed? MS. MILLER: Objection. THE WITNESS: I'm not aware of that, but if we're going to talk about	2 3 4 5 6 7	to your colleagues as an expert in ovarian cancer? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I'm going to have to answer that very similarly because there are certain aspects of
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	Page 42		Page 44
1	THE WITNESS: I would say	1	the market for quite some time, so it
2	internal medicine. I would say	2	would be very rare to see somebody who
3	pulmonary medicine. I would say	3	had a new diagnosis of pulmonary
4	critical care medicine. And all of	4	hypertension and an exposure to one of
5	those well, maybe no, actually	5	those medicines.
6	all of them encompass taking care of	6	When I'm evaluating someone
7	patients who can become or do become	7	with pulmonary hypertension, I
8	very, very sick with ovarian cancer	8	typically do ask them about the
9	and with specific and having	9	potential exposures to anorexigens.
10	specific expertise in taking care of	10	It's just on the list of things to do.
11	some of the medicines that they get	11	QUESTIONS BY MR. TISI:
12	that give them very, very specific	12	Q. Okay.
13	side effects.	13	A. And it should be part of the
14	QUESTIONS BY MR. TISI:	14	differential diagnosis.
15	Q. Have you also cared for	15	Q. So you're treating is it
16	patients with primary pulmonary hypertension?	16	fair to say that with ovarian cancer you're
17	A. I have.	17	treating the sequela of the disease, not
18	Q. Okay. So does that also make	18	making the diagnosis of the disease?
19	you an expert in the area of primary	19	A. No, I mean, I've probably made
20	pulmonary hypertension?	20	the diagnosis of disease one or two times in
21	A. So there are certain aspects of	21	my career.
22	primary pulmonary hypertension that I do	22	Q. Okay. And how long when you
23	consider myself an expert in. I do take care	23	say your career, how long is that?
24	of patients in the hospital who have primary	24	A. I graduated medical school in
25	pulmonary hypertension and also secondary	25	1996, so that's when I became a doctor.
			,
	Page 43		Page 45
1	Page 43 pulmonary hypertension.	1	Page 45 Q. Okay. So can you you list
1 2		1 2	
	pulmonary hypertension.		Q. Okay. So can you you list
2	pulmonary hypertension. But I'll just stop there.	2	Q. Okay. So can you you list the factors on page 30 of your report, the
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	pulmonary hypertension. But I'll just stop there. Q. Do you put when you're taking care of a patient with primary pulmonary hypertension and they're exposed to anorexigens, or they're exposed to fenfluramine, dexfenfluramine, although those are off the market, and would you note that on the list of potential differential causes of the pulmonary hypertension? MS. MILLER: Objection. THE WITNESS: Can you ask that again? QUESTIONS BY MR. TISI: Q. Yes. If you have a patient who has primary pulmonary hypertension with a history of use of the anorexigens fenfluramine and dexfenfluramine, do you put them on the list of potential causes in your do you make note of that in your record?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Okay. So can you you list the factors on page 30 of your report, the Bradford Hill factors: strength of association, consistency, specificity, temporality, biologic gradient, plausibility, coherence, experimentation, analogy. You list them all, correct? A. One, two, three, four, five, six, seven, eight, nine. Yes, correct. Q. Okay. From the time that Bradford Hill, Sir Bradford Hill, wrote his article and you agree that's a seminal paper on the topic of how you evaluate cause? A. It's an article, and it's an important article historically. We learn about it in epidemiology classes. I teach about it. Seminal article, I mean, there are lots of articles that are written about
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12 (Pages 42 to 45)

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1	Page 48
2 A. If you can show me that, I 2 view let me in terms of you apply the same is you apply the same is you apply the same is you apply the Bradford Hill factors the	our
3 Q. So, well, do you agree that 3 do you apply the same is yo 4 it's 4 of the Bradford Hill factors the	
4 it's 4 of the Bradford Hill factors the	
1 2 as described by Diadioid IIII	
6 Q it's a seminal article on 6 A. I would say that it's v	
7 the issue? 7 similar	
8 A. But can you show me where I 8 Q. Okay.	
9 said that? 9 A to what's described	1.
10 Q. I'm asking what your opinion 10 Q. Is there any that are of	
11 is as to whether or not you agree that's the 11 in your view?	4.11.01.01.1
12 seminal article that's a seminal article 12 Can you look at it and	l say for
13 on causation. 13 example, "My view of the coh	
14 A. But you said I 14 different than as described by	
15 Q. I'm not asking you whether you 15 Bradford Hill"?	D1 0y
16 said it in the report. 16 MS. MILLER: Object	etion
17 A. You just did. 17 For the record, I'll just	
18 MS. MILLER: Objection. 18 that the Dr. Merlo brought	
19 QUESTIONS BY MR. TISI: 19 Hill with him.	giii Brautoru
· ·	to morte it
	to mark it
	ant to
11. 11. 11. 11. 11. 11. 11. 11. 11. 11.	ou want to
23 article about written about causation. 23 mark this one?	T111
Q. Okay. Has the medical 24 MR. TISI: I will not.	I'll
25 community, over the past 60 years, changed 25 mark them when I get	
Page 47	Page 49
1 the definitions of any of the Bradford Hill 1 MS. MILLER: But h	ne's looking
2 factors as described by Bradford Hill in his 2 at it now.	C
3 1965 article? 3 MR. TISI: He can lo	ook at it.
4 MS. MILLER: Objection. 4 I think you're limited to "o	objection,"
5 THE WITNESS: That is a very 5 and if we start with this, v	
6 general question, and I would have to 6 to go to the judge.	
7 say that it depends. It depends on 7 MS. SHARKO: Mr.	Tisi
8 who you're defining as the medical 8 MR. TISI: And that's	s another
9 community, who you're defining as 9 thing. We're only having	
10 yeah, I mean, that's a too general 10 objection.	
11 a question to answer. 11 MS. SHARKO: You	don't need to
12 QUESTIONS BY MR. TISI: 12 point your finger.	
13 Q. Well, are there different 13 MR. TISI: I pointed	up. I
y. Wen, we more different 20 mile 1151. I pointed	
do does the medical community define these 14 pointed up, Counsel, and	
do does the medical community define these pointed up, Counsel, and factors differently depending upon who's pointed up, Counsel, and will reflect that I did. The	
do does the medical community define these 14 pointed up, Counsel, and 15 factors differently depending upon who's 15 will reflect that I did. The camera right on me, as yo	let the
14do does the medical community define these14pointed up, Counsel, and15factors differently depending upon who's15will reflect that I did. The16applying them?16camera right on me, as yo17MS. MILLER: Objection.17And you're laughing,	
14do does the medical community define these14pointed up, Counsel, and15factors differently depending upon who's15will reflect that I did. The16applying them?16camera right on me, as yo17MS. MILLER: Objection.17And you're laughing,18THE WITNESS: Again, I don't18record reflect that, as you	
do does the medical community define these 14 pointed up, Counsel, and 15 factors differently depending upon who's 15 will reflect that I did. The applying them? 16 camera right on me, as yo 17 MS. MILLER: Objection. 17 And you're laughing, 18 THE WITNESS: Again, I don't 18 record reflect that, as you 19 know who you're referring to as far as 19 every deposition.	do in
do does the medical community define these factors differently depending upon who's factors differently depending up	do in
do does the medical community define these factors differently depending upon who's factors differently depending up	do in
do does the medical community define these factors differently depending upon who's factors differently depending up	do in ase, behave
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do does the medical community define these factors differently depending upon who's factors differently depending up	do in use, behave did you have a

13 (Pages 46 to 49)

	Page 50		Page 52
1	QUESTIONS BY MR. TISI:	1	MS. MILLER: Objection.
2	Q. No.	2	MR. LOCKE: Objection.
3	My question is I want to be	3	MS. MILLER: Asked and answered
4	able to say I want to know whether or not	4	again.
5	your 2009 {sic} definitions of the Bradford	5	THE WITNESS: I mean, I don't
6	Hill factors no, let me phrase it a	6	even know what vast majority means,
7	different way.	7	but
8	Do you take any issue with any	8	QUESTIONS BY MR. TISI:
9	of the factors as described in the 1965	9	Q. I would say let's say more
10	articles and say, you know, "This concept is	10	than 50 percent.
11	outdated, I would define it differently," or	11	MS. MILLER: Objection to the
12	can we look at the 1965 factors as being the	12	definition of "vast majority" as more
13	ones you actually apply, the definitions you	13	than 50 percent.
14	use?	14	THE WITNESS: So, again, I
15	A. So I usually look at them as	15	don't know the numbers. We can go
16	considerations and not factors.	16	through them if you'd like
17	Q. Okay.	17	QUESTIONS BY MR. TISI:
18	A. And in general, the way it's	18	Q. Okay.
19	written is how I interpret and move through	19	A and get a percentage, but
20	when I evaluate evidence.	20	Q. I think I think fine.
21	Q. Okay. Now, almost every one of	21	On your CV at the bottom of
22	your 79 peer-reviewed papers going back to	22	page 8 you've written several book chapters,
23	your CV have to do with lung disease of one	23	correct?
24	kind or another, correct?	24	A. Book chapters, sure.
25	A. There are a few that deal with	25	Q. Do any deal with cancer?
23	71. There are a few that dear with		Q. Bo any dear with emicer.
	Page 51		Page 53
1	Page 51 certain conditions that may not involve lung	1	Page 53 A. I don't specifically recall,
1 2		1 2	
	certain conditions that may not involve lung		A. I don't specifically recall,
2	certain conditions that may not involve lung disease.	2	A. I don't specifically recall, but in this First Aid for Internal Medicine
2	certain conditions that may not involve lung disease. Q. The vast majority are, correct?	2	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have
2 3 4	certain conditions that may not involve lung disease. Q. The vast majority are, correct? A. I mean, I haven't tallied up.	2 3 4	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have been some some cancer topics in there.
2 3 4 5	certain conditions that may not involve lung disease. Q. The vast majority are, correct? A. I mean, I haven't tallied up. I don't know percentages, but there are	2 3 4 5	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have been some some cancer topics in there. Q. Do any deal with the
2 3 4 5 6	certain conditions that may not involve lung disease. Q. The vast majority are, correct? A. I mean, I haven't tallied up. I don't know percentages, but there are articles in there that involve other disease	2 3 4 5 6	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have been some some cancer topics in there. Q. Do any deal with the methodology for assessing causation?
2 3 4 5 6 7	certain conditions that may not involve lung disease. Q. The vast majority are, correct? A. I mean, I haven't tallied up. I don't know percentages, but there are articles in there that involve other disease states.	2 3 4 5 6 7	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have been some some cancer topics in there. Q. Do any deal with the methodology for assessing causation? A. Book chapters on the
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2 3 4 5 6 7 8	certain conditions that may not involve lung disease. Q. The vast majority are, correct? A. I mean, I haven't tallied up. I don't know percentages, but there are articles in there that involve other disease states. Q. The vast would you agree that the vast majority of your published	2 3 4 5 6 7 8	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have been some some cancer topics in there. Q. Do any deal with the methodology for assessing causation? A. Book chapters on the methodology assessing causation? Not that I'm aware of.
2 3 4 5 6 7 8 9	certain conditions that may not involve lung disease. Q. The vast majority are, correct? A. I mean, I haven't tallied up. I don't know percentages, but there are articles in there that involve other disease states. Q. The vast would you agree that the vast majority of your published literature deals with lung disease of one	2 3 4 5 6 7 8 9	A. I don't specifically recall, but in this First Aid for Internal Medicine Boards there may have been there may have been some some cancer topics in there. Q. Do any deal with the methodology for assessing causation? A. Book chapters on the methodology assessing causation? Not that I'm aware of. Q. Any deal with talcum powder or
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		<u> </u>	
	Page 54		Page 56
1	Do any of your book chapters	1	Q. Any mention of cancer of any
2	deal in any way with talcum powder?	2	kind?
3	A. No, they don't.	3	A. There is not.
4	Q. Okay. Prior to finalizing your	4	Q. Okay. Now, your CV also
5	report in February of 2019, two months ago,	5	mentions that you currently run the adult
6	had you ever publicly expressed your opinion	6	clinic for a cystic fibrosis center for the
7	about talcum powder and ovarian cancer?	7	past four years, since 2015?
8	A. No.	8	A. So I'm the associate program
9	Q. Now, we talked about the fact	9	director for our adult cystic fibrosis
10	that you were an associate professor at Johns	10	program at Johns Hopkins.
11	Hopkins critical care.	11	Q. I'm sorry, I promoted you.
12	You've been associate professor	12	A. Thank you. It's very difficult
13	for how many years?	13	to get promoted at Hopkins, so
14	A. I'd have to look back at my CV.	14	Q. Maybe someday.
15	It looks like I was promoted to associate	15	You've held that position since
16	professor in 2015.	16	2015?
17	Q. So you've been associate	17	A. Where are you referring
18	professor for four years?	18	where are we looking now?
19	A. That's correct.	19	Q. Page 2.
20	(Merlo Exhibit 4 marked for	20	A. Page 2.
21	identification.)	21	Q. I'm sorry, the first page.
22	QUESTIONS BY MR. TISI:	22	A. First page.
23	Q. Okay. I want to show you	23	Q. It says, "2015 to present,
24	Exhibit Number 4, which is the your bio on	24	associate program director, Adult Cystic
25	your web page for the critical care division	25	Fibrosis Center."
	Page 55		Page 57
1	of Hopkins.	1	A. 2015, yes, that's correct.
2	That's your picture, correct?	2	Q. So for four years you've been
3	A. That is my picture.	3	an associate professor. For four years
4	Q. Does it list your expertise as	4	you've been an associate program director for
5	cystic fibrosis, lung transplant, pulmonary	5	the Cystic Fibrosis Clinic.
6	and critical care medicine?	6	What is cystic fibrosis?
7	A. Are you referring to up top	7	A. Cystic fibrosis is a genetic
8	Q. Yes.	8	disease that some people are born with it,
9	A to the right?	9	and it leads to an abnormal chloride channel
10	Expertise: cystic fibrosis,	10	in epithelial-lined cells in
11	lung transplant, pulmonary and critical care	11	epithelial-lined organs in the body. In the
12	medicine	12	lungs it leads to a buildup of secretions and
13	Q. Yes.	13	progressive lung disease that oftentimes
14	A pulmonary?	14	leads to death or lung transplantation.
15	Q. Yeah.	15	It leads to sinus disease. It
16	A. That's what it says.	16	leads to liver disease. It leads to problems
17	Q. Does it also say your research	17	in the gastrointestinal tract. It leads to
18	interests are HIV-related pulmonary disease,	18	infertility in men. It leads to women
19	outcomes after lung transplantation, clinics	19	oftentimes having difficulties getting
20	and clinical cystic fibrosis?	20	pregnant.
21	A. That's what it says.	21	And, unfortunately, there is no
22	Q. Okay. Any mention of ovarian	22	cure for it.
23	cancer?	23	Q. Is it cancer?
24	A. There is no mention of ovarian	24	A. No.
25	cancer.	25	(Merlo Exhibit 5 marked for
		-	(the Edition of Historia

15 (Pages 54 to 57)

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	Page 58		Page 60
1	identification.)	1	THE WITNESS: On this website,
2	QUESTIONS BY MR. TISI:	2	it's listed that my clinical interests
3	Q. Okay. If I could show you	3	are cystic fibrosis and lung
4	Exhibit Number 5, which is the web page from	4	transplantation.
5	the Adult Clinic for the Cystic Fibrosis	5	But again, I have no idea who
6	Center.	6	put this together. I don't know if
7	A. I look much younger there.	7	they were my colleagues or they're
8	Q. We all look younger, Doctor, at	8	some random person at Hopkins did
9	different times.	9	this.
10	This is your web page from the	10	QUESTIONS BY MR. TISI:
11	Johns Hopkins Adult Clinic for Cystic	11	Q. Okay. Did you ever ask to take
12	Fibrosis?	12	it down?
13	A. It's a web page from Hopkins.	13	A. No.
14	I don't know whose web page it is. I didn't	14	Q. Okay. Would you ever tell
15	make it.	15	somebody, "let's put in my clinical interests
16	Q. And it lists you and it an	16	here treatment of ovarian cancer"?
17	associate professor of medicine and	17	MS. MILLER: Objection.
18	epidemiology, correct? Right under your	18	THE WITNESS: You know, there
19	name?	19	are lots of websites out there, and if
20	A. Where are you referring to?	20	I spent my time just looking at
21	Q. Right under your name.	21	websites, I wouldn't be able to get
22	A. I see.	22	anything done.
23	Associate professor of medicine	23	So Hopkins has a lot of web
24	and epidemiology, yes.	24	presence, and we oftentimes don't know
25	Q. And I will talk about the	25	what goes up there.
	Page 59		Page 61
1	Page 59 epidemiology portion of it, but right now let	1	Page 61 QUESTIONS BY MR. TISI:
1 2	epidemiology portion of it, but right now let me ask you this: The research interests	1 2	
	epidemiology portion of it, but right now let		QUESTIONS BY MR. TISI:
2 3 4	epidemiology portion of it, but right now let me ask you this: The research interests listed here are outcomes of adults with cystic fibrosis infected with multiple	2	QUESTIONS BY MR. TISI: Q. I'll just start: Now that
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2 3 4 5	epidemiology portion of it, but right now let me ask you this: The research interests listed here are outcomes of adults with cystic fibrosis infected with multiple antibiotic-resistant pneumonias and I don't even know how to pronounce that last word.	2 3 4 5	QUESTIONS BY MR. TISI: Q. I'll just start: Now that you've seen it, would you go back to your colleagues and say, "You know something, I'm an expert in ovarian cancer; you need to list that"? MS. MILLER: Objection.
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Hopkins Bloomberg School of Public Health. 2 So there's no way for me to parse out whether it's 20/80, 80/20, 80/20, spend, is in the pulmonary and critical care as opposed to the School of Public Health? 50/50. It's all related. QUESTIONS BY MR. TISI:		Page 62		Page 64
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17 (Pages 62 to 65)

Case 3:16-md-02738-MAS-RLS Document 9731-8 Filed 05/07/19 Page 19 of 125 PageID: 33240 Christian Merlo, M.D., MPH

	Page 66		Page 68
1	QUESTIONS BY MR. TISI:	1	QUESTIONS BY MR. TISI:
2	Q. I'm going to provide you as	2	Q. And it's used at Hopkins,
3	Exhibit Number 6 the faculty directory at the	3	right?
4	Bloomberg School of the epidemiology	4	A. Dr. Gordis' textbook, when I
5	department at the Bloomberg School of Public	5	took the course, was used at Hopkins.
6	Health.	6	I'm not sure what textbook is
7	MS. MILLER: Are you providing	7	used for that specific class today.
8	it to the rest of us or just to him?	8	Q. And do you know a Dr and I
9	MR. TISI: I apologize,	9	can't pronounce his name Moyses Szklo?
10	Counsel. I didn't do it quick enough	10	A. Yeah, and I I'm not sure how
11	for you.	11	to pronounce his last his last name
12	MS. MILLER: Thank you.	12	either.
13	MR. TISI: Actually, may I have	13	Q. He's a full professor he's a
14	one copy back?	14	full professor of epidemiology, correct?
15	MS. MILLER: Totally.	15	A. Moyses Szklo.
16	MR. TISI: Thank you.	16	Do I know him? No. I know of
17	MS. MILLER: Susan and I can	17	him.
18	share.	18	Q. Do you know that he took over
19	QUESTIONS BY MR. TISI:	19	the editing of the book when on
20	Q. I'll represent to you, Doctor,	20	epidemiology when Dr. Gordis passed?
21	that this is the faculty directory of the	21	A. I don't know that.
22	epidemiology department, Bloomberg School of	22	Q. Okay. Both of those
23	Public Health. It was taken off the website	23	epidemiologists I mentioned, Dr. Szklo and
24	before your deposition was moved last week,	24	Dr. Gordis, were full-time professors at
25	so April 3rd of 2019.	25	the or in Dr. Szklo's case still is a
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	Page 67		Page 69
1	Do you see that?	1	full-time professor at the Bloomberg School
2	A. I do.	2	of Public Health, correct?
3	MR. LOCKE: Objection.		
		3	A. It says right here that he's a
4	QUESTIONS BY MR. TISI:	4	full-time professor.
5	QUESTIONS BY MR. TISI: Q. And it lists full-time faculty.		full-time professor. Q. Have you spoke to Dr. Szklo?
5 6	QUESTIONS BY MR. TISI: Q. And it lists full-time faculty. Do you see that?	4 5 6	full-time professor. Q. Have you spoke to Dr. Szklo? MS. MILLER: Objection.
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5 6 7 8 9	QUESTIONS BY MR. TISI: Q. And it lists full-time faculty. Do you see that? A. I don't Q. See on the top top right here, full time?	4 5 6 7 8 9	full-time professor. Q. Have you spoke to Dr. Szklo? MS. MILLER: Objection. THE WITNESS: This Dr. Szklo? Yeah. QUESTIONS BY MR. TISI:
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18 (Pages 66 to 69)

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Christian Merlo, M.D., MPH

	Page 70		Page 72
1	you've I mean, is there anything that	1	Do you see that?
2	would prevent you from speaking to Dr. Szklo?	2	A. I do.
3	MS. MILLER: Objection.	3	Q. And if you click on that, on
4	THE WITNESS: If I had a reason	4	the computer, you get the second page of this
5	to. But there are many people on here	5	document, which is a course catalog.
6	that I actually have collaborated	6	Do you see that?
7	with, so	7	A. I do.
8	QUESTIONS BY MR. TISI:	8	Q. And it says, "No results."
9	Q. Okay.	9	A. Okay.
10	A. In particular, Dr. Kirk right	10	Q. Okay. Do you teach any courses
11	here, I think he's on many of my articles.	11	in epidemiology?
12	So, you know, it just depends.	12	A. I do. I teach two.
13	If there was something specific	13	Q. Which ones do you teach?
14	that I thought that we could work on or I had	14	A. I teach a course called the
15	a question, I'd just e-mail or call him right	15	Science of Clinical Investigation and
16	up and go over there.	16	Q. And what is I'm sorry.
17	Q. Good to know. We'll talk about	17	A. And that and the specific
18	that.	18	aspect of that is the design of clinical
19	(Merlo Exhibit 7 marked for	19	studies. We have both an in-person class and
20	identification.)	20	an online course.
21	QUESTIONS BY MR. TISI:	21	Q. Okay. And is any part of that
22	Q. I showed you Exhibit 4, which	22	course the discussion of the application of
23	was your personal web page from Johns Hopkins	23	the Bradford Hill framework to answering a
24	pulmonary critical care department.	24	question of causation?
25	Now let me show you the web	25	MS. MILLER: Objection.
	Page 71		Page 73
1			
_	page from the Johns Hopkins department of	1	THE WITNESS: I don't know that
2	page from the Johns Hopkins department of epidemiology, which I'd like to have marked	1 2	THE WITNESS: I don't know that I have a specific slide that would say
		l	
2	epidemiology, which I'd like to have marked	2	I have a specific slide that would say Bradford there may be. I'd have to look back. But we certainly do talk
2	epidemiology, which I'd like to have marked as Exhibit Number 7.	2 3	I have a specific slide that would say Bradford there may be. I'd have to look back. But we certainly do talk about causality.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	epidemiology, which I'd like to have marked as Exhibit Number 7. Do you see that? A. I see a faculty directory for Johns Hopkins Bloomberg School of Public Health. Q. All right. And underneath it says, "department affiliation." It says, "school of medicine, primary" and "epidemiology, joint." Do you see that? A. I do. Q. What does it mean to be primary, and what does it mean to be primary, and what does it mean to be Joint? A. I actually have no idea. I know that my first appointment at Johns Hopkins was with the School of Medicine, and then because I was teaching courses over at the School of Public Health and collaborating with some of the investigators over there, we	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	I have a specific slide that would say Bradford there may be. I'd have to look back. But we certainly do talk about causality. QUESTIONS BY MR. TISI: Q. And one of the things do you have slides that you use in that course? A. I have slides, and other instructors have slides. Q. Do you have any objection to producing it to us? MS. MILLER: I don't think that's his decision whether to object or not. I think that would be our objection. MR. TISI: I'm asking whether he has any objection. MS. MILLER: That's not an appropriate question for the witness. MR. TISI: I understand. Objection.

19 (Pages 70 to 73)

	Page 74		Page 76
1	Objection.	1	talcum powder?
2	MS. MILLER: No, I'm going to	2	A. No, although I think it would
3	speak.	3	be a very fun exercise during that class.
4	MR. TISI: No, you're not.	4	Q. Okay. When is the next time
5	MS. MILLER: You're talking	5	you give the class?
6	Yes, I am.	6	A. We give the in-person version
7	MR. TISI: No, you're not.	7	in the fall, and we give the online version
8	MS. MILLER: Really? You want	8	usually in the wintertime.
9	to watch?	9	Q. Have you ever taught strategies
10	MR. TISI: Let's call the	10	for investigating the causes of cancer?
11	judge. Let's go off the record and	11	A. Can you ask that again?
12	call the judge.	12	MS. MILLER: Objection.
13	MS. MILLER: We're going to off	13	QUESTIONS BY MR. TISI:
14	the record and call the judge and tell	14	Q. Yes.
15	her that you asked the witness if he	15	Have you ever taught any
16	has any objection to producing a	16	strategies for investigating the causes of
17	document	17	cancer?
18	MR. TISI: Yes, does he have	18	MS. MILLER: Same objection.
19	personal	19	THE WITNESS: So I would have
20	MS. MILLER: and won't let	20	to say that in certain now, for
21	me talk about the objection. That is	21	instance, in this in this
22	not an appropriate question.	22	investigation looking at malignancies
23	MR. TISI: Does he have does	23	after a transplant that we did, yeah,
24	he have any do you have any	24	certainly we talked about aspects of
25	objection	25	how to evaluate the potential
2.5	objection	23	now to evaluate the potential
	Page 75		Page 77
		l	
1	MS. MILLER: That is not an	1	exposure/outcome relationship.
1 2	MS. MILLER: That is not an appropriate question. I'm instructing	1 2	exposure/outcome relationship. QUESTIONS BY MR. TISI:
2	appropriate question. I'm instructing	2	QUESTIONS BY MR. TISI:
2 3	appropriate question. I'm instructing you not to answer.	2 3	QUESTIONS BY MR. TISI: Q. What article is that, so I can
2 3 4	appropriate question. I'm instructing you not to answer. THE WITNESS: You can take the	2 3 4	QUESTIONS BY MR. TISI: Q. What article is that, so I can look it up?
2 3 4 5	appropriate question. I'm instructing you not to answer. THE WITNESS: You can take the course.	2 3 4 5	QUESTIONS BY MR. TISI: Q. What article is that, so I can look it up? A. I'm trying to find the number
2 3 4 5 6	appropriate question. I'm instructing you not to answer. THE WITNESS: You can take the course. QUESTIONS BY MR. TISI:	2 3 4 5 6	QUESTIONS BY MR. TISI: Q. What article is that, so I can look it up? A. I'm trying to find the number here. 65.
2 3 4 5 6 7	appropriate question. I'm instructing you not to answer. THE WITNESS: You can take the course. QUESTIONS BY MR. TISI: Q. I'd love to take the course,	2 3 4 5 6 7	QUESTIONS BY MR. TISI: Q. What article is that, so I can look it up? A. I'm trying to find the number here. 65. Q. Thank you.
2 3 4 5 6 7 8	appropriate question. I'm instructing you not to answer. THE WITNESS: You can take the course. QUESTIONS BY MR. TISI: Q. I'd love to take the course, Doctor. A. Great. Q. I'd love to learn about the	2 3 4 5 6 7 8	QUESTIONS BY MR. TISI: Q. What article is that, so I can look it up? A. I'm trying to find the number here. 65. Q. Thank you. What is the title of the
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	Page 78		Page 80
1	far.	1	Q. Okay. Are there times that
2	THE WITNESS: I would have to	2	you've consulted on legal cases but not been
3	specifically look back at that	3	an expert?
4	article. I don't specifically recall.	4	MS. MILLER: Objection.
5	QUESTIONS BY MR. TISI:	5	THE WITNESS: Well, being asked
6	Q. Okay. Now, could you go to	6	to consult on a case, I've been
7	Appendice C of your report? Your report	7	considered an expert. There have been
8	which I believe is Exhibit Number 3.	8	cases that I've turned down because I
9	It's the list of cases that you	9	felt like my opinion or I felt like
10	have testified to over the past four years.	10	there wasn't there wasn't something
11	A. Okay.	11	that I could support or there wasn't
12	Q. And that's exhibit and	12	something that was something that I
13	that's Exhibit 3 and that's Exhibit 3,	13	could provide an opinion about.
14	correct?	14	QUESTIONS BY MR. TISI:
15	A. Yes, correct.	15	Q. Could you give me an estimate,
16	Q. I want to have I believe	16	if you would I'll talk about your work on
17	counsel provided us with a supplemental	17	behalf of Johnson & Johnson in this case, but
18	exhibit to that. I'll make it 3B because I	18	putting that aside for a moment, on the legal
19	think we have a 3.	19	matters in which you have been either
20	(Merlo Exhibit 3B marked for	20	identified as an expert or consulted,
21	identification.)	21	approximately how much have you made the past
22	MS. MILLER: You're talking	22	year, money?
23	about the fact that we didn't know	23	A. Well, first off, I would like
24	what court one of the cases was in or	24	to clarify that I'm not working on behalf of
25	something.	25	Johnson & Johnson.
23	someuning.		volimbon & volimbon.
	Page 79		Page 81
1	MR. TISI: Honestly, I don't	1	And I would have to look at my
2	know. I don't have any idea.	2	tax statement because I don't recall.
3	MS. MILLER: He's talking about	3	Q. Was it more than \$10,000?
4	this.	4	A. Probably.
5	MR. TISI: Okay. This is just	5	Q. More than 20?
6	a clerical thing, Doctor.	6	A. Probably.
7	Here's provided to us. It	7	Q. More than 30?
8	was a supplement. I'm not even going	8	A. Probably was more than 30.
9	to spend any time with it. It's just	9	Q. More than 40?
10	a housekeeping thing.	10	A. Probably.
11	MS. MILLER: Yeah, I don't	11	Q. More than 50?
12	think Dr. Merlo was involved in that.	12	A. Probably.
13	MR. TISI: Okay.	13	Q. More than 60?
14	QUESTIONS BY MR. TISI:	14	A. In the last year, probably,
15	Q. Okay. So you've given	15	yes.
16	testimony in the past four years 20 times?	16	Q. More than 70?
17	A. That seems about I mean, I	17	A. Maybe.
18	don't know if it's exactly 20, but	18	Q. Okay. What about the year
19	whatever	19	prior?
20	Q. Well, I've counted them up.	20	A. I don't recall.
21	Five times in 2015; three times in 2016; five	21	Q. Okay. The prior last year
22	times in 2017, six times in 2018.	22	you had six times in 2018. 2017 you had five
23	Does that does that look	23	times.
24	about right to you?	24	Would it be approximately the
	A. It looks about right.	25	same?
25	71. It looks doodt light.		Surre.

21 (Pages 78 to 81)

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Christian Merlo, M.D., MPH

	Page 82		Page 84
1	MS. MILLER: Objection. He	1	A. I see that, yes.
2	said he doesn't remember.	2	Q. Is that accurate?
3	MR. TISI: I can I can ask	3	A. This is an invoice. I haven't
4	these questions.	4	seen it yet, but
5	THE WITNESS: Again, I'd	5	Q. Did you do any work for
6	probably have to look at my tax	6	Johnson & Johnson before December of 2018?
7	records. I'd be just guessing.	7	A. Again, I just would like to
8	QUESTIONS BY MR. TISI:	8	clarify. I'm not working for Johnson &
9	Q. Would it be more than 10?	9	Johnson.
10	A. I'd be guessing.	10	Q. Okay. Have you been paid by
11	Q. Okay. Over the past four	11	Johnson & Johnson for your time prior to
12	years, have you been provided have you	12	December of 2018?
13	provided expert work in litigation fairly	13	A. Not that I recall.
14	consistently? Is that something that you do?	14	Q. Okay.
15	MS. MILLER: Objection.	15	MS. MILLER: Let us know when
16	THE WITNESS: It's not	16	it's a good time for a break.
17	something I keep track of. I have	17	QUESTIONS BY MR. TISI:
18	been I have offered opinions as an	18	Q. The next document is an invoice
19		19	showing that you made an additional \$28,995
20	expert witness, but I don't keep track of how much or how little.	20	through April 7, 2019; is that correct?
21	QUESTIONS BY MR. TISI:	21	MS. MILLER: I'm sorry?
22		22	· · · · · · · · · · · · · · · · · · ·
	Q. Now in this case, in 2019, have	23	THE WITNESS: I'm sorry, could
23 24	you in 2019, have you given any	24	you ask that one more time?
	depositions we're now in April. Have you	25	MR. TISI: I'm sorry. I'm
25	been identified as an expert or given any	25	sorry.
	Page 83		Page 85
1	Page 83 opinions in 2019 other than in this case?	1	Page 85 QUESTIONS BY MR. TISI:
1 2		1 2	
	opinions in 2019 other than in this case?		QUESTIONS BY MR. TISI:
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	Page 86		Page 88
1	the support that they give me.	1	Q. Well, let me show you and
2	Q. And if you give me about five,	2	I'm taking this out of order a little bit.
3	ten minutes, I think we can finish this.	3	There's a website that I go to sometimes to
4	MR. TISI: Is that okay with	4	find this information out.
5	you, Counsel?	5	It identifies and I'm going
6	MS. MILLER: Sure.	6	to show you
7	MR. TISI: Okay.	7	MS. MILLER: We're up to what
8	QUESTIONS BY MR. TISI:	8	number exhibit?
9	Q. Your expert work you charge	9	MR. TISI: This is 47. It's
10	\$530 an hour, and \$720 an hour for your	10	taken out of order because everything
11	testimony?	11	is marked.
12	A. That's correct.	12	(Merlo Exhibit 47 marked for
13	Q. Okay. Those are those are	13	identification.)
14	numbers that are is there anything built	14	QUESTIONS BY MR. TISI:
15	into that number?	15	Q. It lists payments made by
16	We had Dr. Diette the other day	16	pharmaceutical companies to doctors, and I'm
17	where a certain portion of his bill went to	17	just curious as to whether this is accurate
18	somebody other than himself, so I'm asking	18	or not.
19	you that question.	19	Were you paid approximately
20	A. You know, and I'd have I	20	\$44,000 in 2016
21	don't actually know, but I'd have to look	21	MS. MILLER: Objection.
22	back or I'd have to talk the	22	QUESTIONS BY MR. TISI:
23	administrative services for that were	23	Q by
24	supported to me by VeraMedica may be built	24	MS. MILLER: Sorry, I thought
		1	
25	into that.	25	you were done.
25		25	·
25	into that. Page 87	25	Page 89
1	Page 87 MS. MILLER: I would note that	1	Page 89 QUESTIONS BY MR. TISI:
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Page 90 Page 92 1 pharmaceutical companies for outside -- work 1 a group that's taking care of patients with 2 outside of your official duties at Johns 2 advanced lung disease due to cystic fibrosis. 3 Hopkins. 3 And most times the talks are a And this goes from 2013 to 4 description about the disease, either to 4 5 5 2016, correct? educate the teams or describe how the process 6 б of when a kid grows up to be an adult with MR. LOCKE: Objection. THE WITNESS: And I am going to 7 cystic fibrosis, how do you take care of the 7 8 say that they're honorarium because 8 transition process. 9 that's what they're called. 9 Most of them don't involve a 10 QUESTIONS BY MR. TISI: 10 specific therapy for cystic fibrosis. 11 Oftentimes specific therapies are talked 11 Q. Okay. A. And I'm asked by sometimes 12 about after the talk with the group, but most 12 other centers to come, and that -- and 13 times it's done for education purposes. 13 Q. But most of the companies that 14 that -- to give a speech or a talk to the 14 15 group, and that talk or speech might be 15 pay these honorariums actually do produce 16 sponsored by a pharmaceutical industry, and 16 products used to treat cystic fibrosis and 17 that's what this reflects. 17 pulmonary disease, correct? A. Which companies are you 18 Q. Okay. And so without getting 18 19 down to the minutiae, this has 44,000, 19 referring to? approximately, in 2016, 31,000 in 2015, 20 20 Q. Gilead, Novartis. 21 79,000 in 2014, and 42,000, approximately, 21 A. Gilead, Novartis do have --2.2 more or less, in 2013. 22 well, Novartis not anymore, but --23 Is that about -- is that 23 Q. They did at the time? 24 accurate or in that ballpark? 24 -- Gilead and Novartis did have A. I mean, I'd have to look 25 25 products that were used to treat patients Page 91 Page 93 1 through my records, but that's what the 1 with cystic fibrosis. 2 website says. 2 Q. Okay. So just to wrap this up, 3 Q. Okay. And is that money that 3 and I -- we'll move on to the next topic and you get as an honorarium yours? 4 take our break. 4 5 5 A. It is mine, yes. MS. MILLER: Take our break. Q. And did you do it in 2017, 6 6 QUESTIONS BY MR. TISI: 7 7 2018, and continue into 2019? Q. You have done work in 8 8 litigation, which we've talked about earlier, MS. MILLER: Objection. Vague. 9 9 THE WITNESS: I'd have to look and you did speeches and talks for which you 10 through my records. I have done --10 received honorarium from pharmaceutical 11 companies. 11 I've given much less talks in the last 12 Do you also -- have you also 12 few years. provided consulting services to 13 13 QUESTIONS BY MR. TISI: 14 pharmaceutical companies or the like that are 14 Q. And on all the products that not giving speeches and all that? 15 15 you speak about or all the companies that A. I mean, I've helped design some 16 you -- they -- would it be fair to say that 16 they are all focused in the pulmonary area; 17 of these talks, put together the slides for 17 18 them, and I have been provided honorariums 18 in other words, either involved treatments 19 for that as well. 19 for pulmonary disease or descriptions of 20 MR. TISI: Let's take our pulmonary disease? Correct? 20 21 break. 21 So there's a lot to that 22 VIDEOGRAPHER: The time is 22 question because you mentioned products, you 23 mentioned descriptions, and I probably should 23 10:23 a.m., and we're going off the break it down a little bit. 24 record. 24 25 (Off the record at 10:23 a.m.) The talks are usually given to 25

24 (Pages 90 to 93)

	Page 94		Page 96
1	VIDEOGRAPHER: The time is	1	A. I don't know specifically. I
2	10:42 a.m., and we are back on the	2	don't know if advisors are assigned or
3	record.	3	advisors are recommended and then the student
4	QUESTIONS BY MR. TISI:	4	decides. I just don't know.
5	Q. Just a couple of questions real	5	Q. Have you ever had a student who
6	briefly before I move on to your report.	6	did a Capstone project with you that was not
7	You received your master's in	7	pulmonary in nature?
8	public health from Johns Hopkins School of	8	A. I've had students who have
9	Public Health in 2003?	9	worked with me that have been outside of
10	A. Yes, I believe so.	10	pulmonary and critical care medicine.
11	Q. And who was your advisor?	11	Q. Okay.
12	A. My advisor in the School of	12	A. Two have been surgeons who have
13	Public Health, or the School of Medicine at	13	worked on that we wound up working on many
14	that time?	14	projects together.
15	Q. School of Public Health.	15	Q. Okay. All right. So when was
16	A. I believe my advisor may have	16	the first time you met with who was your
17	been Marie Diener Smith, but I don't	17	primary contact for the ovarian cancer report
18	specifically recall.	18	that we've marked as Exhibit 3? Which of the
19	Q. Did you do a Capstone?	19	lawyers?
20	A. At the time the Capstone	20	Who first contacted you for
21	project was not part of the master's in	21	this project?
22	public health.	22	A. Ms. Miller.
23	Q. Okay. Did you have to do any	23	Q. Okay. And when was that done?
24	kind of final project to get your MPH?	24	When was the first contact you had with
25	A. We had a final project	25	Ms. Miller?
	Page 95		Page 97
1	assignment with Biostatistics IV where we had	1	A. 2018.
2	to design a clinical study, do the analysis	2	Q. Okay. When?
3	and write up a manuscript, which was	3	A. Late 2018. I don't
4	eventually published, but that was my final	4	specifically recall.
5			
	project.	5	Q. The first billing record that
6	project. Q. And was it a pulmonary study?	5 6	Q. The first billing record that we had when we looked at that exhibit, I
	Q. And was it a pulmonary study?		we had when we looked at that exhibit, I
6	Q. And was it a pulmonary study?A. It was a study looking at risk	6 7	we had when we looked at that exhibit, I think Exhibit 8, had a December 2018 date.
6 7	Q. And was it a pulmonary study?	6	we had when we looked at that exhibit, I
6 7 8	Q. And was it a pulmonary study? A. It was a study looking at risk factors for resistant organisms in cystic	6 7 8	we had when we looked at that exhibit, I think Exhibit 8, had a December 2018 date. Is that about right?
6 7 8 9	Q. And was it a pulmonary study? A. It was a study looking at risk factors for resistant organisms in cystic fibrosis.	6 7 8 9	we had when we looked at that exhibit, I think Exhibit 8, had a December 2018 date. Is that about right? A. It would have been before that.
6 7 8 9 10	Q. And was it a pulmonary study? A. It was a study looking at risk factors for resistant organisms in cystic fibrosis. Q. Okay. So it was a pulmonary	6 7 8 9 10	we had when we looked at that exhibit, I think Exhibit 8, had a December 2018 date. Is that about right? A. It would have been before that. Q. Okay. Was December 2018 the
6 7 8 9 10 11	Q. And was it a pulmonary study? A. It was a study looking at risk factors for resistant organisms in cystic fibrosis. Q. Okay. So it was a pulmonary cystic fibrosis study?	6 7 8 9 10 11	we had when we looked at that exhibit, I think Exhibit 8, had a December 2018 date. Is that about right? A. It would have been before that. Q. Okay. Was December 2018 the first actual work you did on the project?
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6 7 8 9 10 11 12	 Q. And was it a pulmonary study? A. It was a study looking at risk factors for resistant organisms in cystic fibrosis. Q. Okay. So it was a pulmonary cystic fibrosis study? A. It was a cystic fibrosis study. Q. Okay. 	6 7 8 9 10 11 12 13	we had when we looked at that exhibit, I think Exhibit 8, had a December 2018 date. Is that about right? A. It would have been before that. Q. Okay. Was December 2018 the first actual work you did on the project? A. What do you mean by "work"? Q. It's the first time you billed,
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25 (Pages 94 to 97)

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	Page 98		Page 100
1	MS. MILLER: Objection.	1	me, right?
2	THE WITNESS: I don't	2	So you're being paid by the
3	specifically recall.	3	folks sitting next to you, and where it comes
4	QUESTIONS BY MR. TISI:	4	from, we'll leave that we'll leave that to
5	Q. Okay.	5	other people to decide.
6	MS. MILLER: Don't forget to	6	The question is: You are being
7	give me ten seconds before you answer.	7	paid to be here today?
8	THE WITNESS: I'm sorry.	8	A. I will submit a bill, and I
9	QUESTIONS BY MR. TISI:	9	will be paid for being here today.
10	Q. Prior to now, we had	10	Q. Have you ever had any similar
11	indicated that you did some litigation work.	11	circumstances in cases involving Johnson &
12	You did some consulting work for which you	12	Johnson before?
13	received honoraria.	13	A. I don't believe that I have
14	Had you ever worked had you	14	I don't believe so.
15	ever had done litigation work for	15	Q. Okay. Has Johnson & Johnson,
16	Johnson & Johnson previously?	16	putting litigation aside, ever hired you or
17	A. Well, again, I'd have to	17	paid you honoraria to actually speak on a
18	clarify. I'm not doing litigation work for	18	topic?
19	Johnson & Johnson.	19	A. I've never been paid an
20	Q. How would you so we don't	20	honorarium or have been hired by Johnson &
21	have to dance around that issue, how would	21	Johnson.
22	you	22	Q. Okay. Have they ever consulted
23	A. But you keep asking it, so	23	you in any way for any scientific reason
24	MR. LOCKE: Objection.	24	outside of litigation?
25	WIR. LOCKE. Objection.	25	A. Johnson & Johnson has not
			11. Vollison & Vollison nus not
	Page 99		Page 101
1	QUESTIONS BY MR. TISI:	1	consulted me outside of this litigation.
2	0 777 11 1 0 11		
	Q. Well, okay. So you tell me	2	Q. Now, Merlo you know that
3	Q. Well, okay. So you tell me you tell me how I would phrase it so we don't	2 3	
			Q. Now, Merlo you know that
3	you tell me how I would phrase it so we don't	3	Q. Now, Merlo you know that this report was filed in the context of
3 4	you tell me how I would phrase it so we don't have to keep going back and forth on that.	3 4	Q. Now, Merlo you know that this report was filed in the context of litigation, correct, Exhibit 3? It's got a
3 4 5	you tell me how I would phrase it so we don't have to keep going back and forth on that. MS. MILLER: Objection.	3 4 5	Q. Now, Merlo you know that this report was filed in the context of litigation, correct, Exhibit 3? It's got a legal caption on it.
3 4 5 6	you tell me how I would phrase it so we don't have to keep going back and forth on that. MS. MILLER: Objection. QUESTIONS BY MR. TISI:	3 4 5 6	Q. Now, Merlo you know that this report was filed in the context of litigation, correct, Exhibit 3? It's got a legal caption on it. A. Exhibit 3, yes.
3 4 5 6 7	you tell me how I would phrase it so we don't have to keep going back and forth on that. MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. What makes you more	3 4 5 6 7	 Q. Now, Merlo you know that this report was filed in the context of litigation, correct, Exhibit 3? It's got a legal caption on it. A. Exhibit 3, yes. Q. Okay. And it was requested as
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3 4 5 6 7 8 9	you tell me how I would phrase it so we don't have to keep going back and forth on that. MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. What makes you more comfortable? Have you ever done consulting	3 4 5 6 7 8	Q. Now, Merlo you know that this report was filed in the context of litigation, correct, Exhibit 3? It's got a legal caption on it. A. Exhibit 3, yes. Q. Okay. And it was requested as a result it was I'm sorry, it was generated as a result of a request from the
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	you tell me how I would phrase it so we don't have to keep going back and forth on that. MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. What makes you more comfortable? Have you ever done consulting work for Johnson & Johnson in a litigation context before? A. Again, the premise there is that I'm doing something for someone, and I'm not doing something for anyone. Q. Are you being paid by them? A. I don't know who I'm being paid by. Q. You don't know who you don't know that the lawyers here are paying you for your time here today? A. Again, I don't know who is	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Now, Merlo you know that this report was filed in the context of litigation, correct, Exhibit 3? It's got a legal caption on it. A. Exhibit 3, yes. Q. Okay. And it was requested as a result it was I'm sorry, it was generated as a result of a request from the lawyers for J&J? A. I was asked I'll just read this right here. I was asked to address fundamental tenets of epidemiology, to review epidemiology related to the potential association between perineal talc use and ovarian cancer, to review plaintiffs' epidemiologic expert reports, and to offer my opinions on their methodologies. Q. Who asked you to do that? A. I was asked by Ms. Miller. Q. Okay. And when you drafted

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	Page 102		Page 104
1	together a report and that would likely be	1	THE WITNESS: Can you ask that
2	submitted.	2	again?
3	Q. In litigation?	3	QUESTIONS BY MR. TISI:
4	A. In litigation.	4	Q. Yes.
5	Q. Okay. So this report that you	5	Would you have done this report
6	have in front of you, Exhibit Number 6, was	6	had Ms. Miller not asked you to do it?
7	not generated in your normal course of your	7	A. I would not have specifically
8	professional work as a professor or excuse	8	put this together.
9	me, as an assistant professor at Johns	9	Q. Okay.
10	Hopkins, either in the School of Public	10	A. Had not been asked to provide
11	Health or the department of medicine?	11	my opinions on this topic.
12	MS. MILLER: Objection.	12	Q. Right.
13	THE WITNESS: Can you ask that	13	And before Ms. Miller reached
14	again?	14	out to you in December of 2018, some five
15	QUESTIONS BY MR. TISI:	15	months ago, you had never expressed an
16	Q. Yes.	16	opinion one way or another about the risk of
17	So the report that you have in	17	ovarian cancer associated with talcum powder
18	front of you, Exhibit Number 3, was	18	products, have you?
19	generated was not generated in the normal	19	MR. LOCKE: Objection.
20	course of your professional work as a	20	MS. MILLER: Objection.
21	professor or researcher at either the School	21	THE WITNESS: Can you ask that
22	of Medicine or the School of Public Health at	22	one more time?
23	Johns Hopkins?	23	QUESTIONS BY MR. TISI:
24	MS. MILLER: Objection.	24	Q. Yes.
25	THE WITNESS: So I'd say it	25	A. I'm sorry, I'm just getting
	Page 103		Page 105
1	depends. Because if we look at it as	1	when I hear objections, I just
2	a report in itself and how I approach	2	Q. Yeah, they're intended to be
3	this subject, that would be very	3	that way.
4	similar to how I approach a lot of	4	A. No, but it's so I need to
5	things in my in my career. So	5	think about the question.
6	and in my professional duties within	6	MS. MILLER: They're not
7	the School of Medicine and	7	intended to be that way. That was not
8	epidemiology.	8	a necessary comment.
9	So is this any different? No.	9	QUESTIONS BY MR. TISI:
10	QUESTIONS BY MR. TISI:	10	Q. Let me ask you this question.
-			Q. Let me ask you ams question.
11	Q. I didn't ask you that question,	11	Before your report in February,
		11 12	· · · · · · · · · · · · · · · · · · ·
11	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question.		Before your report in February,
11 12 13 14	Q. I didn't ask you that question, Doctor. With all due respect, I think you	12	Before your report in February, Exhibit Number 3, had you ever expressed the
11 12 13	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product	12 13	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says,
11 12 13 14 15	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with	12 13 14	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the
11 12 13 14 15	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product	12 13 14 15	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not
11 12 13 14 15	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with	12 13 14 15 16	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure
11 12 13 14 15 16 17 18	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with your duties and responsibilities at Johns	12 13 14 15 16 17	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure to talc causes ovarian cancer"?
11 12 13 14 15 16 17	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with your duties and responsibilities at Johns Hopkins?	12 13 14 15 16 17 18	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure to talc causes ovarian cancer"? Have you ever said that
11 12 13 14 15 16 17 18	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with your duties and responsibilities at Johns Hopkins? MS. MILLER: That wasn't your	12 13 14 15 16 17 18 19	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure to talc causes ovarian cancer"? Have you ever said that statement or any statement similar to that
11 12 13 14 15 16 17 18 19 20	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with your duties and responsibilities at Johns Hopkins? MS. MILLER: That wasn't your question.	12 13 14 15 16 17 18 19 20	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure to talc causes ovarian cancer"? Have you ever said that statement or any statement similar to that prior to your report being filed on
11 12 13 14 15 16 17 18 19 20 21	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with your duties and responsibilities at Johns Hopkins? MS. MILLER: That wasn't your question. MR. LOCKE: Objection.	12 13 14 15 16 17 18 19 20 21	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure to talc causes ovarian cancer"? Have you ever said that statement or any statement similar to that prior to your report being filed on February 25, 2019?
11 12 13 14 15 16 17 18 19 20 21 22	Q. I didn't ask you that question, Doctor. With all due respect, I think you need to listen to my question. My question is: Was this particular report on talcum powder product and ovarian cancer done in connection with your duties and responsibilities at Johns Hopkins? MS. MILLER: That wasn't your question. MR. LOCKE: Objection. MS. MILLER: That's a different	12 13 14 15 16 17 18 19 20 21 22	Before your report in February, Exhibit Number 3, had you ever expressed the opinion on page 46 of your report that says, "When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal exposure to talc causes ovarian cancer"? Have you ever said that statement or any statement similar to that prior to your report being filed on February 25, 2019? A. I had not said that prior to

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Christian Merlo, M.D., MPH

	Page 106		Page 108
1	review that you did in this case was as a	1	MS. MILLER: I think if you let
2	result of being retained in this case?	2	him finish
3	A. The literature review that I	3	MR. TISI: I said I'm
4	did in this case was because I was asked to	4	withdrawing the question. Okay?
5	provide an opinion on that.	5	QUESTIONS BY MR. TISI:
6	Q. Prior to Ms. Miller contacting	6	Q. I assume that you have reviewed
7	you, had you ever read any of the articles	7	fundamental tenets of epidemiology prior to
8	that you read in connection with this report	8	December of 2018?
9	on tale and ovarian cancer?	9	MS. MILLER: Objection.
10	A. Likely no.	10	THE WITNESS: I have reviewed
11	Q. Okay. Now, you mentioned, if	11	and I teach fundamental tenets of
12	you go to page 1 of your report, the scope of	12	epidemiology.
13	your report as I count it, you have you	13	QUESTIONS BY MR. TISI:
14	did three things.	14	Q. Okay. Putting that aside,
15	You were asked to address	15	prior to December of 2018, have you ever
16	fundamental tenets of epidemiology, correct?	16	reviewed the epidemiology related to the
17	A. Address fundamental tenets of	17	potential exposure between perineal talc use
18	epidemiology.	18	and ovarian cancer?
19	Q. Okay. Number 2, review the	19	A. The potential exposure?
20	epidemiology of the potential association	20	Q. Association.
21	between perineal talc use and ovarian cancer,	21	A. I had not reviewed epidemiology
22	correct?	22	related to the potential association between
23	A. To review the epidemiology	23	perineal talc and ovarian cancer.
24	related to the potential association between	24	Q. Before December of 2018?
25	perineal tale use and ovarian cancer,	25	A. Specifically, it may have been
	permear and use and ovarian earlier,		71. Specifically, it may have been
	Page 107		Page 109
1	correct.	1	November. I don't remember when we first
2	Q. And the third assignment was to	2	talked, but
3	review plaintiffs' epidemiology reports and	3	Q. Let's say the last quarter.
4	offer your opinion on their methodologies?	4	A late 2018.
5	A. So those are two different	5	Q. Okay. So within the past eight
6	things. To review plaintiffs' epidemiology	6	or nine months?
7	expert reports and then to offer my opinions	7	A. Before late 2018? No, I did
8	on their methodologies would be a separate	8	had not reviewed the epidemiology
9	thing.	9	Q. Okay.
10	Q. Okay. All right. And to be	10	A related to the potential
11	clear, the scope the things that you did	11	association between perineal talc exposure
		1	•
12	for this report as indicated on page 1, the	12	and ovarian cancer.
	for this report as indicated on page 1, the four items we've talked about, are things you	1	•
12 13 14	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}?	12	and ovarian cancer.
12 13 14 15	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection.	12 13	and ovarian cancer. Q. Okay. And if you go to
12 13 14 15 16	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI:	12 13 14	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said
12 13 14 15	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018?	12 13 14 15	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would
12 13 14 15 16	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018? MS. MILLER: Objection.	12 13 14 15 16	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the
12 13 14 15 16 17 18 19	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018?	12 13 14 15 16 17	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the epidemiology related to the potential
12 13 14 15 16 17 18 19 20	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018? MS. MILLER: Objection. THE WITNESS: Well, not necessarily.	12 13 14 15 16 17 18	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the epidemiology related to the potential association between perineal use and ovarian
12 13 14 15 16 17 18 19 20 21	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018? MS. MILLER: Objection. THE WITNESS: Well, not	12 13 14 15 16 17 18 19	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the epidemiology related to the potential association between perineal use and ovarian cancer, your opinion was: When analyzed in a
12 13 14 15 16 17 18 19 20	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018? MS. MILLER: Objection. THE WITNESS: Well, not necessarily.	12 13 14 15 16 17 18 19 20	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the epidemiology related to the potential association between perineal use and ovarian cancer, your opinion was: When analyzed in a methodologic manner, the body of medical
12 13 14 15 16 17 18 19 20 21 22 23	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018? MS. MILLER: Objection. THE WITNESS: Well, not necessarily. I think if we QUESTIONS BY MR. TISI: Q. Actually, let me rephrase the	12 13 14 15 16 17 18 19 20 21	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the epidemiology related to the potential association between perineal use and ovarian cancer, your opinion was: When analyzed in a methodologic manner, the body of medical literature simply does not support the
12 13 14 15 16 17 18 19 20 21 22 23 24	for this report as indicated on page 1, the four items we've talked about, are things you never did before December of 2019 {sic}? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. 2018? MS. MILLER: Objection. THE WITNESS: Well, not necessarily. I think if we QUESTIONS BY MR. TISI: Q. Actually, let me rephrase the question.	12 13 14 15 16 17 18 19 20 21 22	and ovarian cancer. Q. Okay. And if you go to page 46 and we touched on this. You said your opinion on Issue Number 2, which would be the results of your analysis of the epidemiology related to the potential association between perineal use and ovarian cancer, your opinion was: When analyzed in a methodologic manner, the body of medical literature simply does not support the conclusion that perineal talc exposure causes
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1 Q. Correct. 2 A this report? 3 And which line was that? 4 Q. The last paragraph. 5 A. "When analyzed in a 1 a group of epidemiology studies 2 A. Can you say that again 3 Q. Yeah. 4 Oftentimes experts in 5 epidemiology disagree about wh	Page 112
3 And which line was that? 3 Q. Yeah. 4 Q. The last paragraph. 4 Oftentimes experts in	mean, true?
3 And which line was that? 3 Q. Yeah. 4 Q. The last paragraph. 4 Oftentimes experts in	
5 A. "When analyzed in a 5 epidemiology disagree about when a same of the control	nat an
6 methodologic manner, the body of medical 6 epidemiology study actually me	ans or a group
7 literature simply does not support the 7 of epidemiology studies actually	y means?
8 conclusion that perineal exposure to talc 8 A. There may be instance	s where
9 causes ovarian cancer," yes. 9 epidemiologists may disagree or	n methodologies
10 (Merlo Exhibit 9 marked for 10 and how a study was performed	
11 identification.) 11 The interpretation of res	sults
12 QUESTIONS BY MR. TISI: 12 is usually something that is not of	disagreed
Q. And I have that conclusion 13 upon. It's usually the methodolo	ogy that
marked as Exhibit Number 9. Read it and tell leads to the disagreement.	
me if it's correct. 15 Q. Well, for an individual	l study,
16 A. That's correct. 16 the results are what the results a	re, true?
17 Q. And that's your professional 17 A. For an individual study	y, the
opinion on the issue of causation, correct? 18 results are usually what the resu	lts are
19 A. That is my professional and 19 based on but those are with	the caveat
20 epidemiologic opinion on causation. 20 that there are a lot of aspects that	nt go into
Q. Okay. 21 those results: the study design,	
22 A. Correct. 22 type, whether or not bias and co	nfounding was
Q. Did you in addition to 23 accounted for before or after the	analysis,
providing basic epidemiologic principles, did 24 was the analysis appropriate.	
25 you apply your professional and epidemiologic 25 So those results can't just	st be
Page 111	Page 113
1 judgment to answer that question? 1 taken out of context without	looking at all
2 A. I don't know what you mean by 2 the other aspects of the study	
3 "epidemiologic judgment." 3 Q. Okay. And when	
4 Q. Well, this epidemiology 4 aside looking at the results of	
5 isn't the kind science where you just plug 5 study, when you're looking a	t a body of
6 numbers in and you come out with an answer, 6 literature, all right, multiple e	epidemiology
7 right? 7 studies, multiple biologic studies	dies, and
	iterature, do
8 MS. MILLER: Objection. 8 trying to interpret a body of l	nt?
9 THE WITNESS: Well, 9 you use professional judgmen	
9 THE WITNESS: Well, 9 you use professional judgment 10 epidemiology can be very objective and 10 MS. MILLER: Obje	ection.
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	Page 114		Page 116
1	Now, apart from your own	1	THE WITNESS: So in
2	causation opinion, which we've marked as	2	MS. MILLER: Ten seconds.
3	Exhibit Number 9, I think, right there is	3	THE WITNESS: So in general,
4	that number 9?	4	the hierarchy of evidence does put
5	A. That's number 9.	5	certain study designs above others.
6	Q. You also, as part of your	6	Meta-analyses are usually put above
7	assignment, offered opinions on the	7	randomized controlled trials.
8	plaintiffs' experts' reports, true?	8	Randomized controlled trials are
9	A. That's correct.	9	usually put above cohort studies.
10	Q. Okay. And in fact, if you go	10	Cohort studies are usually put above
11	to page 46 of your report, you devoted the	11	case-control studies. Case-control
12	vast majority of your conclusion paragraphs	12	studies are usually put above case
13	to discussing the methodologies that are used	13	series or cross-sectional studies.
14	by plaintiffs' experts in reaching their	14	But it depends. It depends on
15	conclusions.	15	many, many it depends on many, many
16	Do you see that?	16	factors, and you can't just take that
17	A. Yes.	17	in itself.
18	Q. Okay. For example, you say in	18	A poorly designed randomized
19	paragraph 2, "The methodologies used by	19	controlled trial may be much less
20	plaintiffs' experts ignore fundamental	20	informative than a very, very good
21	principles of epidemiology. In particular,	21	cohort study.
22	plaintiffs' experts ignore the hierarchy of	22	QUESTIONS BY MR. TISI:
23	evidence evaluating studies and rely on study	23	Q. Okay. Then you say a
24	designs that are inherently susceptible to	24	separate criticism. You say, "Plaintiffs'
25	bias. Specifically plaintiffs' experts pay	25	experts generally agree that even if the
	The state of the s		1
	Page 115		Page 117
-			
1	particular attention to criticizing cohort	1	studies do show an association between talc
2	particular attention to criticizing cohort studies, with little acknowledgement to the	1 2	studies do show an association between talc use and ovarian cancer, have found a relative
2	studies, with little acknowledgement to the	2	use and ovarian cancer, have found a relative
2	studies, with little acknowledgement to the limitations of case-control studies that find	2	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by
2 3 4	studies, with little acknowledgement to the limitations of case-control studies that find weak associations."	2 3 4	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by definition, is a weak association."
2 3 4 5	studies, with little acknowledgement to the limitations of case-control studies that find weak associations." Did I read that correctly?	2 3 4 5	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by definition, is a weak association." Do you see that?
2 3 4 5 6	studies, with little acknowledgement to the limitations of case-control studies that find weak associations." Did I read that correctly? A. That's correct.	2 3 4 5 6	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by definition, is a weak association." Do you see that? A. I do, yes. Q. Okay. And you're critical of
2 3 4 5 6 7	studies, with little acknowledgement to the limitations of case-control studies that find weak associations." Did I read that correctly? A. That's correct. Q. Okay. So you think that there	2 3 4 5 6 7	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by definition, is a weak association." Do you see that? A. I do, yes.
2 3 4 5 6 7 8	studies, with little acknowledgement to the limitations of case-control studies that find weak associations." Did I read that correctly? A. That's correct. Q. Okay. So you think that there is a hierarchy of evidence that is generally	2 3 4 5 6 7 8	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by definition, is a weak association." Do you see that? A. I do, yes. Q. Okay. And you're critical of their description of the strength of the
2 3 4 5 6 7 8 9	studies, with little acknowledgement to the limitations of case-control studies that find weak associations." Did I read that correctly? A. That's correct. Q. Okay. So you think that there is a hierarchy of evidence that is generally accepted?	2 3 4 5 6 7 8	use and ovarian cancer, have found a relative risk in the range of 1.2 to 1.6, this, by definition, is a weak association." Do you see that? A. I do, yes. Q. Okay. And you're critical of their description of the strength of the association?
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30 (Pages 114 to 117)

	Page 118		Page 120
1	and that's why it's considered a weak	1	explain on the record my objections to
2	association.	2	this exhibit.
3	Q. The next thing you say is,	3	MR. TISI: Objection to form is
4	"Likewise, plaintiffs' experts demonstrate a	4	the question {sic}.
5	dose-response relationship in relying on	5	MS. MILLER: That's you
6	methodologically flawed studies and	6	can't object to the form of an
7	statistically insignificant trend lines."	7	exhibit.
8	A. That's correct.	8	MR. TISI: Fine. Objection.
9	Q. Okay. And then another thing	9	MS. MILLER: Excuse me. Please
10	is you say, "They see consistency where the	10	let me finish
11	studies are inherently inconsistent."	11	MR. TISI: Objection.
12	A. That's correct.	12	MS. MILLER: my sentence.
13	Q. Okay. So those are the four	13	You're being really rude to me.
14	main criticisms that you have?	14	MR. TISI: I'm being you
15	MS. MILLER: Objection.	15	know, honestly, you have been so
16	THE WITNESS: That's what it	16	unprofessional with every one of these
17	says here, yeah.	17	witnesses, and I have today pulled
18	(Merlo Exhibit 10 marked for	18	together all of your objections over
19	identification.)	19	the past couple of depositions, I've
20	QUESTIONS BY MR. TISI:	20	put them on a spreadsheet, and I will
21	Q. Okay. So I have pulled	21	send them to judge to Judge Pisano
22	together so it will help us frame our	22	and have him look at whether or not
23	discussion today, I pulled those four, put	23	your objections comply with the CMO.
24	them on a slide, and I'm going to ask you to	24	MS. SHARKO: Calm down.
25	look at it and tell me whether you agree that	25	MR. TISI: Okay. So if we're
			•
	Page 119		Page 121
1	those I'm sorry. Can I have that one	1	going to if we're going to go down
2	back? That's my copy.	2	this today as we did in the Shih
3	MS. MILLER: Yeah.	3	deposition, the Ballman deposition and
4	I'm going to object to this	4	every other deposition in this case,
5	exhibit. I think this pulls four	5	I'm going to pull them, I'm going to
6	sentences out of a 46-page report. It	6	send them to Judge Pisano, and we're
7	says "Merlo allegations," and Merlo's	7	going to have a hearing.
8	not making allegations. He's	8	MS. MILLER: I'm not going to
9	MR. TISI: Oh, he's making	9	be intimidated by your threats.
10	plenty of allegations, and your	10	MR. TISI: So let's just
11	expert	11	let's just comply with the CMO and say
12	MS. SHARKO: Don't interrupt.	12	"objection."
13	MS. MILLER: Excuse me.	13	MS. MILLER: This is an
14	MR. TISI: I'm going to tell	14	inappropriate exhibit.
15	you the Jessica, we're not going to	15	MR. TISI: Fine. Objection.
16	get into this. You've been	16	MR. LOCKE: I object as well.
17	MS. MILLER: I'm going to	17	QUESTIONS BY MR. TISI:
18	object to this exhibit	18	Q. Doctor, are those four
19	MR. TISI: So just say	19	criticisms
20	"objection."	20	MS. MILLER: Excuse me. Do you
21	MS. MILLER: and I'm going	21	have something to say?
22	to explain no.	22	MR. LOCKE: Yeah, I object as
23	MR. TISI: No. You're not	23	well for the same bases.
24	going to. Objection.	24	MR. TISI: Okay.
25	MS. MILLER: I'm going to	25	MR. LOCKE: It doesn't even

31 (Pages 118 to 121)

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Christian Merlo, M.D., MPH

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2 MS. MILLER: Objection. 4 MS. MILLER: I doses frameter whether you've asked the question. We're objecting to the exhibit itself. 5 MR. TISI: Fine. 6 MS. MILLER: I doses frameter whether you've asked the question. We're objecting to the exhibit itself. 9 MR. TISI: Fine. 10 MS. MILLER: It was an imapropriate exhibit. 11 inappropriate exhibit. 12 MR. TISI: So just say objection. 14 MS. SIJARKO: I don't think we have to do that. If you're concerned about the winess hearing what we're saying, he can leave the room. 18 MR. TISI: I'm happy to leave the room. 19 MS. SHARKO: This is totally inappropriate, Mr. Tisi, and you know it. 20 MS. SHARKO: This is totally inappropriate, Mr. Tisi, and you know it. 21 MR. TISI: I can provide him with a plate of spaghetti and ask him questions about it if I want to. 22 MR. LOCKE: And it would be a complete waste of time. 4 QUESTIONS BY MR. TISI: 5 Q. Doctor, let me ask you: Are these four criticisms that are on that exhibit criticisms that you have of plaintiff's experts? 9 MS. MILLER: Rick exhibit itself. 9 MS. MILLER: I day to have the spreadsheet that you made copies of today? By MR. TISI: 10 Okay? It's not inappropriate. 11 MR. TISI: Can I have the spreadsheet that you made copies of today? Because I'm going to mark that as an exhibit. 12 THE WITNESS: I don't know what you mean by "serious charges." 13 MR. TISI: Owell a question without sufficiently determining association." 14 Without sufficiently determining association. 15 A It's all in my report. 26 A It's all in my report. 27 A. It's all in my report. 28 A It's all in my report. 29 Covay. So you disagree. 20 A Which page? I'm sorry. 21 A Which page? I'm sorry. 22 A Which page? I'm sorry. 23 A Which page? I'm sorry. 24 Cyldemiology-Based Opinions, correct? 25 A Which page? I'm sorry. 26 Cyldemiology-Based Opinions, correct? 27 A Which page? I'm sor	1	quote	1	MR. LOCKE: Objection.
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32 (Pages 122 to 125)

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	Page 126		Page 128
1	Q. Right there.	1	fabrication?
2	A. I know, but what I see that,	2	MS. MILLER: Objection.
3	Methodologic Flaws in Plaintiffs' Experts.	3	THE WITNESS: It says,
4	Q. Right.	4	"Plaintiffs' experts fabricate
5	And Section A is, "disregard	5	consistency by ignoring inconsistent
6	for the hierarchy of evidence."	6	studies."
7	A. Section A does say "disregard	7	QUESTIONS BY MR. TISI:
8	for the hierarchy of evidence."	8	Q. And that is a pretty serious
9	Q. And the third paragraph starts	9	thing to say about another scientist, is it
10	with, "A number of plaintiffs'	10	not?
11	epidemiologists ignore well-established	11	MS. MILLER: Objection.
12	hierarchy of evidence," correct?	12	THE WITNESS: Not if it's not
13	A. In my report it says, "A number	13	true.
14	of plaintiffs' epidemiologists ignore the	14	QUESTIONS BY MR. TISI:
15	well-established hierarchy of evidence."	15	Q. Okay. And so your opinion is
16	Q. And under the section that says	16	that these experts fabricated opinions?
17	Methodologic Flaws of Plaintiffs' Experts'	17	A. What this is saying is that
18	Epidemiology-Based Opinions, you also say	18	plaintiffs' expert fabricate consistency, not
19	that they "fabricated consistency by ignoring	19	fabricating an opinion; fabricate consistency
20	studies that did not support their	20	when consistency does not exist.
21	conclusion" on page 44, correct?	21	Q. Well, one of their opinions is
22	A. And where is that on page 44?	22	that there is consistency, correct?
23	Q. Well, Section 2 says,	23	MS. MILLER: Objection.
24	"Plaintiffs' experts fabricate consistency by	24	THE WITNESS: There is
25	ignoring inconsistent studies."	25	opinions well, you'd have to show
	ignoring inconsistent staties.		opinions wen, you'd have to show
	Dama 107		D 100
	Page 127		Page 129
1	A. It says Section 2, "Plaintiffs'	1	me who you're talking about and
1 2		1 2	
	A. It says Section 2, "Plaintiffs'		me who you're talking about and
2	A. It says Section 2, "Plaintiffs' experts fabricate consistency by ignoring	2	me who you're talking about and QUESTIONS BY MR. TISI:
2	A. It says Section 2, "Plaintiffs' experts fabricate consistency by ignoring inconsistent studies."	2 3	me who you're talking about and QUESTIONS BY MR. TISI: Q. Well, you wrote this, Doctor. You wrote this, Doctor. You wrote this, Doctor. Okay?
2 3 4	A. It says Section 2, "Plaintiffs' experts fabricate consistency by ignoring inconsistent studies."Q. That is a very to charge	2 3 4	me who you're talking about and QUESTIONS BY MR. TISI: Q. Well, you wrote this, Doctor. You wrote this, Doctor. You wrote this,
2 3 4 5	A. It says Section 2, "Plaintiffs' experts fabricate consistency by ignoring inconsistent studies." Q. That is a very to charge another scientist with fabrication is a pretty serious charge, is it not? MR. LOCKE: Objection.	2 3 4 5	me who you're talking about and QUESTIONS BY MR. TISI: Q. Well, you wrote this, Doctor. You wrote this, Doctor. You wrote this, Doctor. Okay?
2 3 4 5 6	A. It says Section 2, "Plaintiffs' experts fabricate consistency by ignoring inconsistent studies." Q. That is a very to charge another scientist with fabrication is a pretty serious charge, is it not?	2 3 4 5 6	me who you're talking about and QUESTIONS BY MR. TISI: Q. Well, you wrote this, Doctor. You wrote this, Doctor. You wrote this, Doctor. Okay? You said that "plaintiffs'
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33 (Pages 126 to 129)

	Page 130		Page 132
1	had you not actually done the work to make	1	medical evidence and the literature, there's
2	that conclusion, correct?	2	tremendous inconsistency between study
3	A. I have read the expert	3	designs, cohort studies and case controls,
4	Q. Okay.	4	and even within study designs.
5	A reports, but for the purpose	5	Q. Okay. And then
6	of today, we would have to	6	A. In looking at the difference
7	Q. I'm going to ask you that. I'm	7	between hospital-based case controls and
8	going to ask you that, Doctor.	8	population-based controls, there's
9	My question is: That's a	9	inconsistency.
10	pretty serious thing for one scientist to say	10	Q. Okay. And we're going to talk
11	about another.	11	about that. Okay. I promise you we're going
12	MS. MILLER: Objection.	12	to talk about that.
13	QUESTIONS BY MR. TISI:	13	But the question is: When you
14	Q. How would you how would you	14	use a word like "fabrication," you would
15	react if somebody said you that you	15	agree that that is a word that is has a
16	fabricated your opinion in this case?	16	particular understanding in science as being
17	MS. MILLER: Objection.	17	a very bad thing?
18	THE WITNESS: I didn't say that	18	MS. MILLER: Objection.
19	there's fabrication of opinion. I	19	THE WITNESS: I would neither
20	said that's fabricating consistency,	20	agree nor disagree with that. I don't
21	and that's a very different thing.	21	know even what you mean by "that's a
22	QUESTIONS BY MR. TISI:	22	very bad thing."
23	Q. Okay. And you don't think that	23	QUESTIONS BY MR. TISI:
24	the experts in this case testified that they	24	Q. So if somebody said to you,
25	thought the studies were consistent?	25	"Doctor, your report contains fabricated
	Page 131		
	1490 131		Page 133
1	A. We'd have to look at each	1	conclusions or fabricated methodologies,"
1 2	A. We'd have to look at each	1 2	
			conclusions or fabricated methodologies,"
2	A. We'd have to look at each expert and go through. It's a very general	2	conclusions or fabricated methodologies," would you not take that seriously?
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Christian Merlo, M.D., MPH

	Page 134		Page 136
1	goals; instead, it undermines scientific	1	disease."
2	efforts to better understand the etiology of	2	Q. Right.
3	disease."	3	A. "The distortion of
4	Is it your opinion that	4	epidemiologic science for purposes of
5	plaintiffs' experts distorted the	5	litigation does not achieve this goal."
6	epidemiologic science for purposes of	6	Q. Okay.
7	litigation?	7	A. "Instead, it undermines
8	MR. LOCKE: Objection.	8	scientific efforts to better understand the
9	THE WITNESS: That's what I	9	etiology of disease."
10	wrote in my report.	10	Q. We read that. Now I'm asking
11	QUESTIONS BY MR. TISI:	11	you a question about that.
12	Q. Did you mean to refer to	12	My question is: Is it your
13	plaintiffs' experts here?	13	opinion that that's what the plaintiffs'
14	A. In any epidemiologic study	14	experts did in this case?
15		15	MS. MILLER: Objection.
16	Q. I'm asking you this question.MS. MILLER: Please let him	16	THE WITNESS: I don't know what
17		17	
	answer.	18	the experts did in this case as far as
18	THE WITNESS: In any	1	with regards to that.
19	epidemiologic study, if science is	19	What I can say is that the
20	distorted for the purpose of	20	distortion of epidemiologic science
21	litigation, it goes against	21	for purposes of litigation does not
22	QUESTIONS BY MR. TISI:	22	achieve those goals.
23	Q. Right.	23	QUESTIONS BY MR. TISI:
24	A what I've done in my	24	Q. Okay. I'm asking you this
25	Q. And you're claiming that's what	25	question. You have to answer this question.
	Page 135		Page 137
1	defendants that that's what plaintiffs'	1	Okay?
2	experts did in this case.	2	Is it your opinion, to a
3	A. Can you say that again?	3	reasonable degree of medical and scientific
4	Q. Yes.	4	certainty, that plaintiffs' experts distorted
5	37 1 1 1 1 1		
_	You say you don't do that,	5	* * *
6	You say you don't do that, right?	5 6	the epidemiologic science for the purposes of litigation?
	· · · · · · · · · · · · · · · · · · ·		the epidemiologic science for the purposes of
6	right? You don't distort the	6	the epidemiologic science for the purposes of litigation?
6 7	right? You don't distort the scientific evidence for the purposes of	6 7	the epidemiologic science for the purposes of litigation? MR. LOCKE: Objection. THE WITNESS: So I believe I
6 7 8	right? You don't distort the	6 7 8	the epidemiologic science for the purposes of litigation? MR. LOCKE: Objection.
6 7 8 9	right? You don't distort the scientific evidence for the purposes of litigation, right?	6 7 8 9	the epidemiologic science for the purposes of litigation? MR. LOCKE: Objection. THE WITNESS: So I believe I answered that already. I the methodology that was
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6 7 8 9 10 11	right? You don't distort the scientific evidence for the purposes of litigation, right? MS. MILLER: Objection. THE WITNESS: Can you ask that	6 7 8 9 10 11	the epidemiologic science for the purposes of litigation? MR. LOCKE: Objection. THE WITNESS: So I believe I answered that already. I the methodology that was performed by plaintiffs' experts is
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1	understand you have a difference of opinion	1	QUESTIONS BY MR. TISI:
2	on their methodology. But you take it one	2	Q. So you have no idea what the
3	step further, right?	3	motive and intent of plaintiffs' experts were
4	You say it was their	4	in drafting their opinions, right?
5	methodology at least the implication is,	5	A. I have no idea.
6	and I'm asking you the question: Are you	6	Q. Okay. Are you saying that the
7	suggesting that they fabricated in a	7	methodology that they used was fraudulent?
8	methodology for the purposes of litigation?	8	MS. MILLER: Objection.
9	MR. LOCKE: Objection.	9	THE WITNESS: I don't think
10	MS. MILLER: Objection. Asked,	10	that there's are you referring to
11	answered, mischaracterizes his	11	any part of my report that says
12	opinions and his testimony.	12	fraudulent?
13	THE WITNESS: I believe I	13	QUESTIONS BY MR. TISI:
14	answered that.	14	Q. I'm asking you your opinion
15	QUESTIONS BY MR. TISI:	15	I'm asking your opinion right now, under
16	Q. Okay. I want to hear about	16	oath.
17	your litigation I want to hear about what	17	Are you saying that the
18	your opinion is as the motivation for doing	18	opinions that they offered was fraudulent?
19	what they did.	19	MS. MILLER: Objection.
20	Is it your opinion that their	20	QUESTIONS BY MR. TISI:
21	motive in drafting their reports and using	21	Q. The methodology they used was
22	the methodology that they use was to assist	22	fraudulent?
23	in litigation?	23	A. Probably have to be a little
24	MS. MILLER: Objection.	24	bit more specific.
25	THE WITNESS: I have no idea	25	Q. Tell me what your views are on
23	THE WITNESS. Thave no idea	23	Q. Tell life what your views are on
	Page 139		Page 141
1	Page 139 what their motivation was.	1	Page 141 that.
1 2		1 2	
	what their motivation was.		that.
2	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your	2	that. A. Which expert are we talking
2 3	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why	2 3	that. A. Which expert are we talking about? Which part of the methodology?
2 3 4	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your	2 3 4	that. A. Which expert are we talking about? Which part of the methodology? Which
2 3 4 5	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your report, Doctor?	2 3 4 5	that. A. Which expert are we talking about? Which part of the methodology? Which Q. Okay. Do you think that
2 3 4 5 6	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your report, Doctor? MR. LOCKE: Objection.	2 3 4 5 6	that. A. Which expert are we talking about? Which part of the methodology? Which Q. Okay. Do you think that Dr. Siemiatycki applied a fraud a
2 3 4 5 6 7	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your report, Doctor? MR. LOCKE: Objection. MS. MILLER: Objection.	2 3 4 5 6 7	that. A. Which expert are we talking about? Which part of the methodology? Which Q. Okay. Do you think that Dr. Siemiatycki applied a fraud a professor of epidemiology applied who has
2 3 4 5 6 7 8	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your report, Doctor? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: Because if	2 3 4 5 6 7 8	that. A. Which expert are we talking about? Which part of the methodology? Which Q. Okay. Do you think that Dr. Siemiatycki applied a fraud a professor of epidemiology applied who has sat on IARC and looked at cancer and exposure
2 3 4 5 6 7 8 9	what their motivation was. QUESTIONS BY MR. TISI: Q. So then why is it in here? Why is anything about litigation even in your report, Doctor? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: Because if epidemiologic science is distorted for	2 3 4 5 6 7 8	that. A. Which expert are we talking about? Which part of the methodology? Which Q. Okay. Do you think that Dr. Siemiatycki applied a fraud a professor of epidemiology applied who has sat on IARC and looked at cancer and exposure to disease applied a fraudulent methodology?
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36 (Pages 138 to 141)

	Page 142		Page 144
1	science.	1	shaking
2	Q. Okay. Do you think that	2	MR. TISI: Okay. That's fine.
3	Dr. McTiernan did?	3	MS. SHARKO: and I ask that
4	MS. MILLER: Objection.	4	you calm down.
5	THE WITNESS: Can you ask that	5	MR. TISI: I think it's I
6	one more time?	6	think you can ask if I'd calm down,
7	QUESTIONS BY MR. TISI:	7	but when this gentleman comes in here
8	Q. Yes.	8	and says our experts fabricated,
9	Do you think that Dr. McTiernan	9	ignored, I take it personally.
10	distorted epidemiologic science?	10	QUESTIONS BY MR. TISI:
11	MS. MILLER: Objection.	11	Q. I want to hear I want to
12	THE WITNESS: I have no idea.	12	ask I want to ask you this question,
13	QUESTIONS BY MR. TISI:	13	Doctor.
14	Q. Okay. Do you think that	14	MS. SHARKO: Well, I think
15	Dr. Smith-Bindman distorted science?	15	you're misrepresenting his report, and
16	MS. MILLER: Objection.	16	he's told that you.
17	THE WITNESS: I don't know.	17	MR. TISI: Well, if you are,
18	QUESTIONS BY MR. TISI:	18	then maybe maybe he ought to back
19	Q. Do you think that Dr. Singh	19	down on some of the adjectives he
20	distorted science?	20	uses.
21	A. The same answer stands.	21	QUESTIONS BY MR. TISI:
22	Q. Dr. Moorman, do you think she	22	Q. Doctor, do you believe
23	distorted science?	23	MS. SHARKO: Do you need a
24	MS. MILLER: Objection.	24	break, Mr. Tisi?
25	THE WITNESS: I think I	25	MR. TISI: No, I don't, Susan,
	1112 ((111.)2001 1 1111111 1		11210 1101 110, 1 4011 0, 2 40411,
	Page 143		Dago 145
	rage 143		Page 145
1	can't I can't speak to the	1	but maybe you do.
1 2		1 2	
	can't I can't speak to the	l	but maybe you do.
2	can't I can't speak to the motivations of someone else.	2	but maybe you do. QUESTIONS BY MR. TISI:
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37 (Pages 142 to 145)

Christian Merlo, M.D., MPH

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2 Q. If you ignored evidence of dose consistency, if you ignored evidence of dose 4 response, you would be subject to the same criticism. You would hold yourself up to no different scrutiny than you would imply—you would impose on plaintiffs experts, a greed? 9 MS. MILLER: Objection. There was a question, and before he could 10 answer it, you asked another question. MR. LOCKE: Objection. There 10 was a question, and before he could 11 answer it, you asked another question. MR. LOCKE: Objection. 12 MR. LOCKE: Objection. 12 MS. MILLER: Objection. 13 QUESTIONS BY MR. TISI: 14 Q. Would you agree that you should not fabricate in consistency when there is 15 consistency? 16 MS. MILLER: Objection. 17 MS. MILLER: Objection. 17 MS. MILLER: Objection. 18 THE WITNESS: If we just go 19 back to the medical evidence in this 20 specific case, the fact that there is 20 mo strength of association or— 22 QUESTIONS BY MR. TISI: 22 MS. MILLER: Objection. 24 mother of the plaintiffs' experts for? 16 mot asking about the 25 strike it. And honestly, we're going to 5 criticized the plaintiffs' experts for? 17 MS. MILLER: Objection. 18 MS. MILLER: Objection. 19 THE WITNESS: Can you ask that one more time? 20 (UESTIONS BY MR. TISI: 20 (UESTIONS BY MR. TISI: 20 (UESTIONS BY MR. TISI: 21 (UESTIONS BY MR. TISI: 22 (UESTIONS BY MR. TISI: 23 (UESTIONS BY MR. TISI: 24 (UESTIONS BY MR. TISI: 25 (UESTIONS BY MR. TISI: 26 (UESTIONS BY MR. TISI: 27 (UESTIONS BY MR. TISI: 28 (UESTIONS BY MR. TISI: 29 (UESTIONS BY MR. TISI: 29 (UESTIONS BY MR. TISI: 20 (UESTIONS BY MR. TISI: 20 (UESTIONS BY MR. TISI: 20 (UESTIONS BY MR. TISI: 21 (UESTIONS BY MR. TISI: 22 (UESTIONS BY MR. TISI: 24 (UESTIONS BY MR. TISI: 25 (UESTIONS BY MR. TISI: 26 (UESTIONS BY MR. TISI: 27 (UESTIONS BY MR. TISI: 28 (UESTIONS BY MR. TISI: 29 (UESTIONS	1	QUESTIONS BY MR. TISI:	1	A. I don't know what that means.
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38 (Pages 146 to 149)

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	Page 150	Page 152
1	THE WITNESS: Somewhere around	1 A. There are hospital-based
2	there. I don't remember the specific	case-control studies. There are
3	time.	population-based case-control studies, pool
4	MS. MILLER: Please let me	case-control studies, cohort studies.
5	finish my objections.	Q. They go from the 1980s, 1990s,
6	QUESTIONS BY MR. TISI:	2000s and 2010s. Four decades, correct?
7	Q. Prior to being contacted by the	7 A. Spanning 1982 through 2016 for
8	lawyers	these studies that we're talking about right
9	MS. SHARKO: I assume you mean	9 here.
10		Q. Were you involved in any of
11		these studies in any way even peripherally?
12		12 A. I was not.
13		Q. Okay. Had anybody in this
14		period of time ever contacted you and said,
15	J 1 6	15 "You know, we have this issue out there about
16		whether or not talcum powder products are
17	1 , ,	associated with ovarian cancer; could you
18	· · · · · · · · · · · · · · · · · · ·	consult with us on that question?"
19		19 MS. MILLER: Objection.
20		THE WITNESS: What period of
21		time are we talking about?
22		22 QUESTIONS BY MR. TISI:
23		23 Q. 1982 till today.
24		Other than the lawyers.
25		A. Can you ask me that question
20	Q. Okay. And you do know that the	71. Can you ask me that question
	Page 151	Page 153
1		
1 2	epidemiologic the first epidemiologic	again then?
	epidemiologic the first epidemiologic study was published by researchers at Harvard	again then?Q. Yeah.
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39 (Pages 150 to 153)

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	Page 154		Page 156
1	QUESTIONS BY MR. TISI:	1	to express your opinions to the United States
2	Q. Has anyone ever consulted you	2	Congress about the relationship between
3	and said, "What do you think about these	3	ovarian cancer and talcum powder products?
4	studies?"	4	MS. MILLER: Objection.
5	A. No.	5	THE WITNESS: No. No. But
6	Q. Has anyone ever said to you,	6	again, I would have been excited to do
7	"Doctor, you know, the evidence is really	7	something like that.
8	unclear; can you help us design a study?"	8	QUESTIONS BY MR. TISI:
9	MS. MILLER: Objection.	9	Q. Did any scientist at Johnson &
10	THE WITNESS: No.	10	Johnson ever come to you and say, "You know,
11	QUESTIONS BY MR. TISI:	11	we have" you understand Health Canada has
12	Q. Has anybody ever come to you	12	reviewed the evidence, correct?
13	from Johnson & Johnson and say, "You know, we	13	A. I don't have I don't know
14	have these different regulatory bodies	14	anything about Health Canada.
15	looking at the issue, NTP, the National	15	Q. Okay. Health Canada, you know,
16	Toxicology Project, IARC, the FDA, Health	16	is the Canadian equivalent to the United
17	Canada, looking at this issue; would you come	17	States FDA?
18	help us explain to these various regulatory	18	MR. LOCKE: Objection.
19	bodies what the science is about talc and	19	MS. MILLER: Objection.
20	ovarian cancer?"	20	THE WITNESS: I have no idea
21	MS. MILLER: Objection.	21	what Health Canada is.
22	THE WITNESS: No, but I would	22	QUESTIONS BY MR. TISI:
23	have been excited to do it.	23	Q. Okay. And have you ever been
24	QUESTIONS BY MR. TISI:	24	asked by the scientists, as opposed to the
25	Q. You know that Congress just	25	lawyers at Johnson & Johnson, to express your
	Page 155		Page 157
1	held a hearing on the issue of ovarian cancer	1	opinion before any regulatory or professional
2	and talcum powder products, correct?	2	body on the relationship between ovarian
3	A. I have no idea.	3	cancer and talcum powder products?
4	Q. You know Dr. McTiernan appeared	4	MS. MILLER: Objection.
5	before appeared before the House of	5	THE WITNESS: No, and I believe
6	Representatives to express her opinions in a	6	I've answered this before, but I would
7	public forum, correct?	7	have been having reviewed the
8	MS. MILLER: Objection.	8	literature, I would be really excited
9	THE WITNESS: Again, I have no	9	to do that.
10	idea.	10	QUESTIONS BY MR. TISI:
11	QUESTIONS BY MR. TISI:	11	Q. Uh-huh. Let me ask you this,
12	Q. Do you know that did Johnson	12	Doctor maybe Ms. Sharko will ask you to do
13	& Johnson ever ask you, "You know, Dr. Merlo,	13	it after this deposition. We'll find out.
14	we need somebody to present our point of view	14	Has Johnson & Johnson ever come
15	on what the science says. Would you go	15	to you and asked you, we have to do a
16	testify before Congress?"	16	causation analysis on any issue, on any
17	Did they tell you that?	17	product it markets?
18	MS. MILLER: Objection.	18	A. They have not.
19	THE WITNESS: Did they tell me	19	Q. And you know Johnson &
20	what?	20	Johnson's a big company. They produce
21	QUESTIONS BY MR. TISI:	21	they produce pharmaceutical drugs. They
22 23	Q. Did they ask you to do that?	22	produce cosmetics. They produce
ノイ	MS. MILLER: Objection. Vague.	23	over-the-counter drugs. They produce all
	OLIECTIONS DV ASS. TICE	_ ^ ^	1' 1 C 1 ' 1'0
24	QUESTIONS BY MR. TISI:	24	kinds of drugs, right?
	QUESTIONS BY MR. TISI: Q. Did Johnson & Johnson ask you	24 25	kinds of drugs, right? MS. MILLER: Objection.

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Page 158 Page 160 1 THE WITNESS: I have no idea. 1 done on this issue, have you ever either been 2 I mean, I know of Johnson & Johnson, 2 approached or approached Johnson & Johnson 3 but I don't have an opinion on what 3 and said, "You know something, I'm an expert 4 4 they do or have really any knowledge in design of studies. Let me help you design 5 5 a study that would -- that would answer this on what they do. question once and for all"? 6 **OUESTIONS BY MR. TISI:** б 7 7 MS. MILLER: Objection. Q. And other than the litigation, 8 they never came to you to ask your advice on 8 **QUESTIONS BY MR. TISI:** 9 anything, true? 9 Q. Has that ever happened? 10 10 MS. MILLER: Objection. MS. MILLER: Objection. 11 THE WITNESS: I think we've 11 THE WITNESS: Excuse me. That 12 talked about that. They didn't ask me 12 has not happened. 13 to do anything. 13 **QUESTIONS BY MR. TISI:** 14 QUESTIONS BY MR. TISI: 14 Q. Okay. 15 Q. Now, in this case, literally 15 A. However, I would gladly like to 16 millions of documents have been produced --16 be involved in something like that. 17 millions of pages of documents have been 17 Q. Okay. produced to us. A. I think the key issue here in 18 18 designing a clinical study like that is there 19 Would it surprise you that the 19 20 name Christian Merlo doesn't appear in any of 20 are a lot of difficulties. 21 21 O. Well, you can't do a clinical 22 MS. MILLER: Objection. 22 trial on this issue, can you? THE WITNESS: I don't know what A. Well, it depends what you mean 23 23 24 24 by a clinical trial, because clinical trials you're referring to. 25 25 can be cohort studies; they can be Page 159 Page 161 1 **QUESTIONS BY MR. TISI:** 1 case-control studies. 2 Q. Millions of pages of documents 2 Understood. 3 relating to research and marketing and 3 You cannot randomize patients 4 evidence and -- about ovarian cancer and its 4 to receiving talcum powder products, and it 5 5 relationship to talcum powder products, the would be unethical and unfeasible to study 6 6 this question using a randomized, controlled, composition of talcum powder, all kinds of 7 placebo-controlled trial? 7 issues, have been produced to us in this 8 8 A. It would be very difficult to 9 9 Would it surprise you that your perform a randomized controlled trial. 10 name doesn't appear even once over the past 10 Q. It would also be -- it would 11 not only be difficult, it would be unethical 11 40 or 50 years of documents that we've 12 12 received? if the hypothesis was to assess whether or 13 not talcum powder products cause ovarian 13 MR. LOCKE: Objection. THE WITNESS: No, it wouldn't 14 14 cancer? 15 15 surprise me, but my opinion on this A. Usually when randomized 16 and the potential association --16 controlled trials are designed, by 17 potential causal association between 17 definition, if there is a -- if you're 18 testing a hypothesis that something is 18 talcum powder and ovarian cancer is 19 causing something, usually you wouldn't 19 based on the medical literature. 20 perform a randomized controlled trial. 20 QUESTIONS BY MR. TISI: 21 O. It would be unethical. There 21 Q. Okay. Have the scientists at 22 are rules against that, correct? 22 Johnson & Johnson ever reached out to you and 23 MS. MILLER: Objection. 23 said -- even as of today, even as of the day THE WITNESS: There are rules you wrote this report criticizing the various 24 24 studies that have been done in this case, 25 against randomized controlled trials 25

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	Page 162		Page 164
1	when the hypothesis is that you're	1	provide us with potential evidence when
2	going to cause there is the	2	looking at the association between exposure
3	potential to cause harm.	3	and outcome.
4	QUESTIONS BY MR. TISI:	4	Q. Okay. Has the FDA ever reached
5	Q. Right.	5	out to you and asked your opinions on the
6	So it's not it's not you	6	question of whether or not talc causes
7	would not expect to see clinical trials in a	7	ovarian cancer?
8	setting like this?	8	A. The FDA has not.
9	A. Again, these are there are	9	Q. Okay. You know IARC?
10	clinical trials that have been done, but we	10	A. I know what IARC stands for,
11	wouldn't expect to see a randomized	11	but I don't know IARC.
12	controlled trial performed here.	12	Q. Okay. Do you have you
13	Q. Okay. And you would agree with	13	has the International Agency for Research on
14	me that in circumstances like this, what	14	Cancer, IARC, ever contacted you for any
15	typically experts have are epidemiology	15	reason to ask you to be involved in any
16	studies, observational studies.	16	assessment of any exposure and cancer?
17	MS. MILLER: Can you just ask	17	A. They have not.
18	that again?	18	Q. Have you written Health Canada
19	QUESTIONS BY MR. TISI:	19	to express your opinions that you've given in
20	Q. You want me to answer {sic}	20	your report?
21	again?	21	MS. MILLER: Objection.
22	A. If you could ask me again, yes,	22	THE WITNESS: Again, I don't
23	please.	23	really know who Health Canada is.
24	Q. Do you where the question is	24	QUESTIONS BY MR. TISI:
25	whether or not an environmental factor or a	25	Q. Have you been provided with
	Page 163		Page 165
1		1	
1 2	substance causes harm, what science typically	1 2	Health Canada's draft report on talcum powder
1 2 3	substance causes harm, what science typically relies on are observational studies and		Health Canada's draft report on talcum powder and ovarian cancer?
2	substance causes harm, what science typically relies on are observational studies and biologic studies because you can't do	2	Health Canada's draft report on talcum powder and ovarian cancer? MS. MILLER: Objection. I
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2 3 4 5 6	substance causes harm, what science typically relies on are observational studies and biologic studies because you can't do controlled trials? MS. MILLER: Objection. THE WITNESS: Okay. Again, we have to just separate clinical trials.	2 3 4 5 6 7	Health Canada's draft report on talcum powder and ovarian cancer? MS. MILLER: Objection. I don't know what that means. MR. TISI: You don't have to, Counsel. THE WITNESS: Is there
2 3 4 5 6 7	substance causes harm, what science typically relies on are observational studies and biologic studies because you can't do controlled trials? MS. MILLER: Objection. THE WITNESS: Okay. Again, we have to just separate clinical trials. That involves everything.	2 3 4 5 6	Health Canada's draft report on talcum powder and ovarian cancer? MS. MILLER: Objection. I don't know what that means. MR. TISI: You don't have to, Counsel. THE WITNESS: Is there something that you want to show me?
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	Page 166		Page 168
1	saw it Counsel, you know, honestly,	1	THE WITNESS: Can you ask that
2	you really need to stop. You are	2	one more time?
3	among the most unprofessional people I	3	QUESTIONS BY MR. TISI:
4	have ever seen objecting in a case.	4	Q. Yeah.
5	You inject yourself into almost every	5	Is it of interest to you what
6	question.	6	other scientists and regulators have said
7	MR. LOCKE: Objection.	7	about the question you were asked to address
8	MS. SHARKO: Your ad hominem	8	outside of litigation?
9	and personal attacks	9	A. I'm curious about what others
10	MR. TISI: Counsel, I was	10	say; however, in my review of the body of
11	called at the last deposition	11	medical literature that is out there today in
12	MS. SHARKO: and venomous	12	the published, peer-review literature, my
13	comments, Mr. Tisi, are inappropriate.	13	opinions are based on that.
14	MR. TISI: I was called	14	Q. Okay.
15	MS. SHARKO: Stop it	15	A. I'm curious about other things,
16	immediately.	16	but my opinions are based on what is peer
17	MR. TISI: I was called at the	17	reviewed and published.
18	last deposition I was kicking her	18	Q. Have you looked to see what
19	under the table. I was called that I	19	others have said about the body of evidence?
20	speak to her as a you know, that I	20	A. I don't know what you mean by
21	speak to women this way.	21	"others."
22	Please don't talk to me about	22	Q. Other scientists? Other
23	ad hominem attacks.	23	regulatory bodies?
24	MS. SHARKO: Well, those other	24	A. You'd have to be more specific.
25	things you said are true. You were	25	Q. Example, Health Canada?
	Page 167		Page 169
1	kicking her.	1	A. Health Canada? And again, I
2	MR. TISI: Oh, okay. I was not	2	have no idea who Health Canada is, whether or
3	kicking her under the table, and you	3	not who is involved in Health Canada,
4	know that that's true not true.	4	whether or not there are scientists involved,
5	MR. LOCKE: The witness is	5	whether or not who's there. I have no
6	entitled to read	6	idea.
7	MR. TISI: I'm not asking him a	7	Q. How about IARC? Did you review
8	question about the document. I'm	8	the IARC 2010 report?
9	asking whether he ever saw the	9	You were reviewing evidence
10	•		
	document.	10	through 2006. Did you look at that?
11	document. MS. MILLER: He needs to review	10	through 2006. Did you look at that? A. Can you say that again? You
11 12			- · · · · · · · · · · · · · · · · · · ·
	MS. MILLER: He needs to review	11	A. Can you say that again? You
12	MS. MILLER: He needs to review it to know if he ever saw it.	11 12	A. Can you say that again? You said two dates.
12 13	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him	11 12 13	A. Can you say that again? You said two dates. Q. Yes.
12 13 14	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions.	11 12 13 14	A. Can you say that again? You said two dates.Q. Yes.There was a 2010 report looking
12 13 14 15	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions. MS. MILLER: Okay. THE WITNESS: I'm looking to see if I've seen this before.	11 12 13 14 15	A. Can you say that again? You said two dates. Q. Yes. There was a 2010 report looking at evidence up to 2006.
12 13 14 15 16	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions. MS. MILLER: Okay. THE WITNESS: I'm looking to see if I've seen this before. I don't know.	11 12 13 14 15 16	A. Can you say that again? You said two dates. Q. Yes. There was a 2010 report looking at evidence up to 2006. Did you look at that report?
12 13 14 15 16 17	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions. MS. MILLER: Okay. THE WITNESS: I'm looking to see if I've seen this before.	11 12 13 14 15 16 17	A. Can you say that again? You said two dates. Q. Yes. There was a 2010 report looking at evidence up to 2006. Did you look at that report? A. I believe I did review that.
12 13 14 15 16 17	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions. MS. MILLER: Okay. THE WITNESS: I'm looking to see if I've seen this before. I don't know.	11 12 13 14 15 16 17 18	A. Can you say that again? You said two dates. Q. Yes. There was a 2010 report looking at evidence up to 2006. Did you look at that report? A. I believe I did review that. Q. And did you look any other
12 13 14 15 16 17 18 19	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions. MS. MILLER: Okay. THE WITNESS: I'm looking to see if I've seen this before. I don't know. QUESTIONS BY MR. TISI:	11 12 13 14 15 16 17 18	A. Can you say that again? You said two dates. Q. Yes. There was a 2010 report looking at evidence up to 2006. Did you look at that report? A. I believe I did review that. Q. And did you look any other place to see what other scientists and
12 13 14 15 16 17 18 19 20	MS. MILLER: He needs to review it to know if he ever saw it. MR. TISI: No. I'm asking him the questions. MS. MILLER: Okay. THE WITNESS: I'm looking to see if I've seen this before. I don't know. QUESTIONS BY MR. TISI: Q. Okay. Is it of interest to you	11 12 13 14 15 16 17 18 19 20	A. Can you say that again? You said two dates. Q. Yes. There was a 2010 report looking at evidence up to 2006. Did you look at that report? A. I believe I did review that. Q. And did you look any other place to see what other scientists and doctors have said about the issue?
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Christian Merlo, M.D., MPH

	Page 170		Page 172
1	Q. Did you seek epidemio input	1	report.
2	from your epidemiologic colleagues at Johns	2	A. I see it there on page 30.
3	Hopkins?	3	Q. Yeah. So now can we agree it's
4	A. I seek I seek help from	4	a seminal article?
5	epidemiologists all the time.	5	MS. MILLER: Objection.
6	Q. For this report?	6	THE WITNESS: Well, it says,
7	A. No.	7	"As Hill noted his seminal article."
8	Q. Okay. Did you speak to	8	QUESTIONS BY MR. TISI:
9	Dr. Diette about your opinions in this case?	9	Q. So why was that such a hard
10	A. No.	10	question to ask when answer when I asked
11	Q. Did you speak to Dr. Szklo? Is	11	you what your opinion was?
12	that his name?	12	MR. LOCKE: Objection.
13	A. Yeah. No.	13	MS. MILLER: Objection.
14	Q. Did you speak to him?	14	QUESTIONS BY MR. TISI:
15	A. No. No.	15	Q. Did you need to see it in your
16	Q. Did you get permission of	16	report in order to say what it says?
17	approval from Johns Hopkins to participate in	17	MS. MILLER: Objection.
18	this litigation?	18	THE WITNESS: I didn't
19	MS. MILLER: Objection.	19	specifically remember saying that.
20	THE WITNESS: That's not	20	QUESTIONS BY MR. TISI:
21	something that I would need approval	21	Q. Okay. It doesn't matter
22	through Johns Hopkins for.	22	because my question was, is it a seminal
23	(Merlo Exhibit 14 marked for	23	article? I didn't ask you whether you said
24	identification.)	24	it in your report.
25		25	Why is it so hard to answer a
	Page 171		Page 173
1	QUESTIONS BY MR. TISI:	1	simple question as whether or not this is a
2	Q. Going back to your opinions	2	seminal article?
3	1 1 10 1 10 1 15 1 10 1 14		
	about talc, I'd like to attach as Exhibit 14	3	MS. MILLER: Objection.
4	the Bradford Hill article I think you had in	3 4	Is that actually a question
	the Bradford Hill article I think you had in front of you, but I'm going to attach it as	1	Is that actually a question you're asking?
4	the Bradford Hill article I think you had in	4	Is that actually a question
4 5	the Bradford Hill article I think you had in front of you, but I'm going to attach it as Exhibit Number 14. A. Thank you.	4 5	Is that actually a question you're asking? MR. TISI: Yes. Absolutely. QUESTIONS BY MR. TISI:
4 5 6	the Bradford Hill article I think you had in front of you, but I'm going to attach it as Exhibit Number 14. A. Thank you. Q. Is this the Bradford Hill	4 5 6	Is that actually a question you're asking? MR. TISI: Yes. Absolutely.
4 5 6 7	the Bradford Hill article I think you had in front of you, but I'm going to attach it as Exhibit Number 14. A. Thank you. Q. Is this the Bradford Hill article that you have been referring to?	4 5 6 7	Is that actually a question you're asking? MR. TISI: Yes. Absolutely. QUESTIONS BY MR. TISI:
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	Page 174		Page 176
1	And why is that such a hard	1	you?
2	question to answer?	2	It's the second paragraph.
3	MS. MILLER: Objection.	3	A. I see that.
4	MR. LOCKE: Objection.	4	Q. Right.
5	THE WITNESS: It's probably one	5	What does the first paragraph
6	of his seminal articles.	6	say?
7	QUESTIONS BY MR. TISI:	7	A. We can read it if you'd like.
8	Q. Okay. You didn't address the	8	Q. Why don't you.
9	question of biologic plausibility in your	9	A. "I have no wish, nor the skill,
10	report, did you?	10	to embark upon a philosophical discussion of
11	A. So I did not speak about	11	the meaning of causation. The cause of
12	biologic plausibility in my report.	12	illness may be immediate, indirect, it may be
13	Q. Okay. Did you I'm sorry.	13	remote and indirect, underlying the observed
14	A. And you can go ahead.	14	association, but with the aims of
15	Q. Did you address the question of	15	occupational and almost synonymously
16	specificity?	16	preventive medicine in mind, the decisive
17	A. There are several aspects of	17	question is whether the frequency of the
18	the Bradford Hill considerations that are	18	undesirable event, B, will be influenced by a
19	inherently irrelevant in the analysis.	19	change in the environmental factor, A. How
20	And the reason for that is if	20	such a change exerts that influence may call
21	we if we just back up a little bit, first	21	for a great deal of research. However,
22	of all, Bradford Hill said that you need to	22	before deducing causation and taking action,
23	have a clearcut association before even going	23	we shall not have invariably have to sit
24	into that and	24	around awaiting the results of that research.
25	Q. Aren't there plenty of examples	25	The whole chain may have to be unraveled or a
	Page 175		Page 177
1	of cases where a exposure there is no	1	few links may suffice. It will depend on
2	epidemiology studies where there is a	2	circumstances."
3	clearcut association?		
		3	Q. Okay. So and circumstances
4	I'll give you an example:	4	are, there are sometimes we have a lot of
5	I'll give you an example: Acetaminophen and liver disease, do you know	4 5	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence
5 6	I'll give you an example: Acetaminophen and liver disease, do you know of any epidemiology study which establishes	4 5 6	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence on another factor, right?
5 6 7	I'll give you an example: Acetaminophen and liver disease, do you know of any epidemiology study which establishes that risk?	4 5 6 7	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence on another factor, right? MS. MILLER: Objection.
5 6	I'll give you an example: Acetaminophen and liver disease, do you know of any epidemiology study which establishes that risk? MS. MILLER: Objection.	4 5 6 7 8	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence on another factor, right?
5 6 7 8 9	I'll give you an example: Acetaminophen and liver disease, do you know of any epidemiology study which establishes that risk? MS. MILLER: Objection. THE WITNESS: I'm not here to	4 5 6 7 8 9	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence on another factor, right? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. These are considerations. No
5 6 7 8 9	I'll give you an example: Acetaminophen and liver disease, do you know of any epidemiology study which establishes that risk? MS. MILLER: Objection. THE WITNESS: I'm not here to give an opinion on	4 5 6 7 8 9	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence on another factor, right? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. These are considerations. No one is more important than the other. And
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	I'll give you an example: Acetaminophen and liver disease, do you know of any epidemiology study which establishes that risk? MS. MILLER: Objection. THE WITNESS: I'm not here to give an opinion on QUESTIONS BY MR. TISI: Q. I know. But I want to know A acetaminophen and liver disease. I'd have to review the literature. Q. Well, where is your assessment? Where is the statement that before you apply the Bradford Hill factors that there must be a clearcut association? MS. MILLER: Objection. THE WITNESS: It's actually said right in his article. QUESTIONS BY MR. TISI: Q. Actually, let's talk about that	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	are, there are sometimes we have a lot of evidence on one factor and a lot of evidence on another factor, right? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. These are considerations. No one is more important than the other. And that was Dr Sir Bradford Hill's point, right? These are considerations? MS. MILLER: Objection. THE WITNESS: Once there is a clearcut association. And without that clearcut association, one could make the case of not even performing a Bradford Hill analysis. QUESTIONS BY MR. TISI: Q. Okay. One can make the case; is that what he says? A. What he says is that in "in looking at causation, our observations reveal

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Page 178 Page 180 1 care to attribute the play of chance." 1 epidemiologic studies that looked at 2 Q. Now, before we discuss your 2 different subtypes. experience any further, I want to ask you to 3 3 Q. And serous cancers were more go back to the front page of your report. 4 4 associated at a higher rate than other 5 The front page of your report, 5 ovarian cancers, correct? Exhibit 3, says -- actually, let me just go 6 A. It depends on which study we're 6 7 back and ask this question. 7 looking at. We'd have to go through all of On the Bradford Hill, you said 8 8 them. 9 you didn't discuss the biologic evidence with 9 Q. Okay. But would it -- you respect to talc and ovarian cancer, and it's 10 didn't do that for the purposes of -- you 10 not in your report, correct? didn't look at whether or not the evidence --11 11 there was evidence of specificity to -- for 12 MS. MILLER: Objection. 12 13 THE WITNESS: I did not. 13 example, epithelial ovarian cancer as opposed 14 QUESTIONS BY MR. TISI: to other kinds of cancers? 14 15 Q. Okay. Did you -- I'm sorry, I 15 A. That's not --16 thought you were finished. 16 MS. MILLER: Objection. A. No, I did not discuss biologic 17 17 THE WITNESS: That's not 18 plausibility, and the reason is -- I said 18 exactly what Bradford Hill is talking about when talking about specificity. 19 before one could make the case of not even 19 20 performing a Bradford Hill analysis, but for 20 QUESTIONS BY MR. TISI: 21 the sake of what other experts did, I went 21 Q. Okay. 22 through strength of association, consistency 22 A. The term "specificity" is 23 and dose response. 23 referred -- the term "specificity" is talking 24 about a specific exposure causing a certain And with a lack of strength of 24 25 disease, and there are certain diseases that association, with a lack of consistency 25 Page 179 Page 181 1 between studies and with a lack of dose 1 have lots of things that can cause them. 2 response, biologic plausibility doesn't But if there is one disease 3 matter because there's no causal association 3 that only one exposure causes, then that's 4 between talcum powder and ovarian cancer 4 what specificity means. Not specificity in 5 5 based on the medical literature. the different type of ovarian cancer. 6 So let me ask you this: Is the 6 O. So you don't think it's 7 7 relevant to look at whether or not a issue of specificity important? 8 For example, wouldn't it be 8 association is correlated more specifically 9 9 important to consider whether or not the with the type of ovarian cancer as opposed to 10 studies that did show an association were 10 ovarian cancer generally for the purposes of 11 specific to a particular type of cancer and 11 trying to figure out whether or not there 12 not others? Because that would -- that 12 really was bias in these studies? 13 question would argue against the issue of 13 MS. MILLER: Objection. 14 recall bias, for example. 14 THE WITNESS: I don't even A. You asked several questions 15 understand what you just asked me. 15 16 **QUESTIONS BY MR. TISI:** 16 there, so if you could just break that down, 17 it would be helpful. 17 Q. Okay. You didn't look at --18 Q. I'll break it down. 18 you didn't look at analogy, did you? 19 Wouldn't it be important to 19 MS. MILLER: Objection. 20 consider the issue of specificity? 20 THE WITNESS: Analogy, again, You know that many of these 21 is -- you'd have to look at something 21 22 exactly similar to tale, and there's 22 studies broke down their analysis -- tried to 23 break down their analysis by subtype of 23 nothing analogous there that --QUESTIONS BY MR. TISI: 24 ovarian cancer, correct? 24 25 There were several 25 Q. But you didn't address it in

	Page 182		Page 184
1	your report is my question.	1	A. So, first of all, it says
2	A. I did not address it.	2	"perfectly clearcut."
3	Q. And you didn't address the	3	Q. I understand you quoted him,
4	specificity factor, correct?	4	and I'm asking you I'm not asking you what
5	A. Again, specificity in this	5	he meant because I think it's article is
6	case, as in cases of other diseases where	6	pretty clear when he meant.
7	there are a number of potential risk factors,	7	I'm asking you: In the next
8	it's not appropriate to look at specificity.	8	sentence where you pulled out the word
9	Q. Doctor, my question is: You	9	"clearcut," what do you mean?
10	didn't address it in your report at all?	10	MS. MILLER: Objection.
11	MS. MILLER: Please don't	11	THE WITNESS: One that is
12	interrupt him.	12	beyond that we would attribute to the
13	THE WITNESS: It's inherent in	13	play of chance.
14	there.	14	And based on the body of
15	QUESTIONS BY MR. TISI:	15	medical evidence and the inconsistency
16	Q. Okay. It's not addressed	16	within certain study designs and
17	specifically in your report, is it?	17	between certain study designs, the
18	MS. MILLER: Objection.	18	association is not clearcut.
19	QUESTIONS BY MR. TISI:	19	QUESTIONS BY MR. TISI:
20	Q. You didn't say, "I address the	20	Q. How do you define "clearcut"?
21	specificity factor, and it doesn't apply or	21	In other words, when you say
22	it does apply" for the following reasons?	22	"play of chance," that's a statistical
23	MS. MILLER: Objection.	23	concept.
24	THE WITNESS: Again, there is	24	Chance is defined typically by
25	not a line item that says specificity,	25	P value, correct, of .05?
	, , , , , , , , , , , , , , , , , , ,		,
	Page 183		Page 185
1	Page 183 and because of and the reason for	1	Page 185 A. Chance is defined as a about
1 2		1 2	A. Chance is defined as a about a 1 and 20 chance.
	and because of and the reason for		A. Chance is defined as a about
2	and because of and the reason for that is because there's no strength of	2	 A. Chance is defined as a about a 1 and 20 chance. Q. Right. A .05 P value, right? A. Statistically, yes.
2 3	and because of and the reason for that is because there's no strength of association, there's no consistency	2 3	A. Chance is defined as a abouta 1 and 20 chance.Q. Right. A .05 P value, right?
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	Page 186		Page 188
1	QUESTIONS BY MR. TISI:	1	study types over a period of time that
2	Q. I'm not asking you in this	2	show some show something and some show
3	case.	3	another, that's inconsistent, and that
4	I'm asking you, generally	4	Q. What do they show here that
5	speaking, when you say the requirement is not	5	makes them inconsistent?
6	satisfied here okay, because it's not	6	MS. MILLER: Objection. He's
7	presented with a clearcut association.	7	really please let him finish his
8	I'm asking you, generally	8	sentences.
9	speaking, if you're if I'm a student at	9	THE WITNESS: Can you be more
10	Johns Hopkins and I see this sentence and I	10	specific?
11	ask you raise my hand and say, "Doctor,	11	QUESTIONS BY MR. TISI:
12	can you tell me what is meant by a clearcut	12	Q. Yeah. You just made
13	association? What is meant by that?" how	13	MS. MILLER: You were in the
14	would you what would you tell me?	14	middle of a sentence.
15	Without reference to any	15	QUESTIONS BY MR. TISI:
16	specific case, what is meant by clearcut	16	Q. You just made the statement,
17	association?	17	"Some show something and some show another,
18	MS. MILLER: Objection.	18	that's inconsistent."
19	THE WITNESS: I would say it	19	My question is, what: Here
20	depends. It depends on what we're	20	what is the "something" you're referring to?
21	looking at, what exposure and outcome	21	A. Well, if we're specifically
22	relationship we're looking at. It	22	talking about the potential causal
23	depends what's available in the	23	association between talcum powder and ovarian
24	medical evidence. It depends on how	24	cancer, there are hospital-based case-control
25	the study or the initial work was set	25	studies that are all not statistically
	Page 187		Page 189
1	Page 187 up. It depends on whether or not bias	1	Page 189 significant.
1 2	up. It depends on whether or not bias and confounding were taken care of.	1 2	significant. There are population-based
	up. It depends on whether or not biasand confounding were taken care of.It depends on so many factors		significant. There are population-based case-control studies; some are statistically
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	up. It depends on whether or not bias and confounding were taken care of. It depends on so many factors that it makes it impossible to even answer that question. QUESTIONS BY MR. TISI: Q. Would it matter whether or not the study was replicated, in other words, that there was more than one study? A. So sometimes replication can help with Q. Is it necessary? A. So I was wasn't done. Q. Okay. A. So sometimes replication can be helpful. Is it necessary? Not necessarily, because you could have one very, very, very good initial study where you've taken care of lots of things like bias and	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	significant. There are population-based case-control studies; some are statistically significant, some are not. There are cohort studies, four of them, all not statistically significant. And so when you break down this association in trying to look at causality, when you break down things when you break down this by study design, there's a difference. There's an inconsistency between cohort studies and cases controls. There's an inconsistency between population-based case controls and hospital-based case controls. Q. Okay. So if I understand you correctly A. And so the association is not clearcut. Q. Okay. So if I can go to
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	Page 190		Page 192
1	suggestion of plaintiffs' experts, in	1	difficult to prove causality.
2	parentheses, that this criterion" and the	2	QUESTIONS BY MR. TISI:
3	criterion we're talking about is	3	Q. So is an underlying
4	consistency "to weigh in favor finding	4	principle you say it's important to
5	causal association must be consistency in	5	remember here that a statistically
6	statistically significant associations."	6	significant result is inconsistent with a
7	And you have that in bold,	7	statistically insignificant result?
8	correct?	8	MR. LOCKE: Objection.
9	A. Are we reading the first	9	MS. MILLER: Objection.
10	sentence?	10	THE WITNESS: Can you say that
11	Q. Correct.	11	again?
12	A. Okay. Can I read it?	12	
13		13	QUESTIONS BY MR. TISI:
14		1	Q. Yes.
	A. You want me to read it out	14	If one study shows a
15	loud?	15	statistically significant result and one a
16	Q. No, I just read it.	16	statistically insignificant result, are they
17	A. I was flipping through, trying	17	by definition inconsistent?
18	to	18	MS. MILLER: Objection.
19	Q. That's okay. Let me read it	19	THE WITNESS: I think it
20	again.	20	depends. If you get 20 studies, and
21	You state, "It is important to	21	10 of them are statistically
22	remember, contrary to the suggestion of	22	significant and 10 are not
23	several of plaintiffs' experts, that for this	23	statistically significant, that's
24	criterion to weigh in favor of finding a	24	inconsistent.
25	causal relationship, there must be	25	
	Page 191		Page 193
1	consistency in statistically significant	1	QUESTIONS BY MR. TISI:
2	associations."	2	Q. Okay. Have you done a
3	And you have that in bold,	3	meta-analysis?
4	correct?	4	A. I have.
5	A. That's correct.	5	Q. Okay. Have you ever published
6	Q. Okay. And the report that you	6	a meta-analysis?
7	cite there is I'm sorry, you don't cite	7	A. I have not.
8	anything for that.	8	Q. Are you a biostatistician?
9	Can you tell me your basis for	9	A. I've taken courses in
10	that	10	biostatistics. I don't consider myself a
11	MS. MILLER: Objection.	11	biostatistician, but oftentimes there is a
12	QUESTIONS BY MR. TISI:	12	link between epidemiology and biostatistics.
13	Q statement?	13	So I do a lot of my statistical analysis
14	MS. MILLER: Objection.	14	myself. I don't consider myself a
15	THE WITNESS: As an	15	biostatistician, though.
16	epidemiologist, if we are if I'm	16	Q. Okay. Do you hold yourself out
17	asked to weigh the body of evidence	17	to colleagues as a biostatistician or a
18	and there is inconsistency in	18	statistician?
19	statistical significance, it makes it	19	MS. MILLER: Objection. Asked
20	impossible to conclude a causal	20	and answered.
21	relationship between exposure and	21	THE WITNESS: Again, I consider
22		22	myself an epidemiologist, and we do
23	outcome. Recause if you're not showing	23	have training in biostatistics, and
43	Because if you're not showing	43	
2/	consistent statistical significance	24	they're not - they're oftentimes
24	consistent statistical significance,	24 25	they're not they're oftentimes
24 25	consistent statistical significance, then that association becomes very	24 25	they're not they're oftentimes very, very linked. I don't call

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	Page 194		Page 196
1	myself a biostatistician.	1	an infection at age 1, and we follow
2	QUESTIONS BY MR. TISI:	2	them for 20 years.
3	Q. Okay. By virtue of being	3	Sometimes we ask about things
4	would you agree with me that though there is	4	and we follow people for an
5	overlap between the two professions you	5	appropriate amount of time, but they
6	guys need each other, right? it is not	6	may have been exposed to that prior to
7	necessarily the case that a biostatistician	7	that. So it really depends.
8	is an epidemiologist and an epidemiologist is	8	QUESTIONS BY MR. TISI:
9	a biostatistician?	9	Q. Now, I asked you a couple of
10	MS. MILLER: Objection.	10	questions before about the role of
11	MR. LOCKE: Objection.	11	professional judgment in looking at the
12	THE WITNESS: That's pretty	12	Bradford Hill guidelines.
13	general. I mean, there are probably	13	Do you remember those
14	people out there that are both.	14	questions?
15	QUESTIONS BY MR. TISI:	15	A. Not specifically, no.
16	Q. And there are some that are one	16	Q. Okay. Well, I'm going to turn
17	and not the other, correct?	17	to that question now. I told you I'd come
18	A. I have no idea. It's not	18	back to it, and I'm going to come back to it
19	something I think about.	19	now.
20	Q. Okay. What is the latency of	20	Did you use when looking at
21	ovarian cancer between something that may	21	all of this evidence that you looked at, did
22	cause it and something that and the onset	22	you use any degree of professional judgment
23	of disease?	23	in analyzing the question of whether or not
24	MS. MILLER: Objection.	24	talcum powder products cause ovarian cancer?
25	THE WITNESS: I don't think	25	A. I don't know what you mean by
	THE WITHESE. I don't time		1 acres many current cy
	Page 195		Page 197
1	Page 195 anybody knows the latency of ovarian	1	Page 197 "professional judgment."
1 2		1 2	
	anybody knows the latency of ovarian		"professional judgment."
2	anybody knows the latency of ovarian cancer and first of all, you'd have	2	"professional judgment." What I did is I reviewed the
2	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have	2 3	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked
2 3 4 5 6	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have to say what risk factor you're talking about. Is it risk factor X, and do we know that, has that been studied?	2 3 4	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked at how the studies were designed, whether or not they controlled for bias or adjusted for potential confounding, sample size in
2 3 4 5	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have to say what risk factor you're talking about. Is it risk factor X, and do we	2 3 4 5	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked at how the studies were designed, whether or not they controlled for bias or adjusted for
2 3 4 5 6	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have to say what risk factor you're talking about. Is it risk factor X, and do we know that, has that been studied?	2 3 4 5 6	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked at how the studies were designed, whether or not they controlled for bias or adjusted for potential confounding, sample size in
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2 3 4 5 6 7 8	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have to say what risk factor you're talking about. Is it risk factor X, and do we know that, has that been studied? So talking about the latency of ovarian cancer with such generalities,	2 3 4 5 6 7 8 9	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked at how the studies were designed, whether or not they controlled for bias or adjusted for potential confounding, sample size in studies, the differences in population between the case-control studies, the number
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2 3 4 5 6 7 8 9	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have to say what risk factor you're talking about. Is it risk factor X, and do we know that, has that been studied? So talking about the latency of ovarian cancer with such generalities, I don't think anybody can answer that. QUESTIONS BY MR. TISI:	2 3 4 5 6 7 8 9	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked at how the studies were designed, whether or not they controlled for bias or adjusted for potential confounding, sample size in studies, the differences in population between the case-control studies, the number of people in cohort studies, how long people were followed.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	anybody knows the latency of ovarian cancer and first of all, you'd have to not just say something, you'd have to say what risk factor you're talking about. Is it risk factor X, and do we know that, has that been studied? So talking about the latency of ovarian cancer with such generalities, I don't think anybody can answer that. QUESTIONS BY MR. TISI: Q. Well, is that important to consider when looking at cohort studies and to see whether or not they're long enough? MS. MILLER: Objection. THE WITNESS: So that depends. It depends on whether certainly it does depend on how long you follow someone in a cohort study, yeah, but also depends on when potentially the exposure could have started. For instance, in cohort studies	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	"professional judgment." What I did is I reviewed the literature. I read the articles. I looked at how the studies were designed, whether or not they controlled for bias or adjusted for potential confounding, sample size in studies, the differences in population between the case-control studies, the number of people in cohort studies, how long people were followed. So I don't know what you mean by professional judgment, but that's what I did. Q. Well, I mean, you provided a list of things that you did. Is there anything on that list that you think that any of plaintiffs' experts did not do? A. You'd have to get way more specific about that.
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50 (Pages 194 to 197)

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	Page 198		Page 200
1	design, number of patients enrolled, all	1	because it's one of my textbooks. I'm
2	those things that you just mentioned? You	2	not here to provide opinions on
3	listed a bunch of them.	3	whether or not I think a textbook is
4	Can you think of any gap in	4	authoritative. I'm here to give you
5	their report where they didn't consider the	5	my opinion on the medical evidence.
6	things you considered?	6	(Merlo Exhibit 22 marked for
7	MS. MILLER: Objection.	7	identification.)
8	THE WITNESS: You'd have to	8	QUESTIONS BY MR. TISI:
9	show where what we're what you're	9	Q. Well, you cited a textbook
10	asking me about.	10	okay. Let me ask you this. Let me look at
11	QUESTIONS BY MR. TISI:	11	Exhibit 22.
12	Q. No, I'm not going to do that,	12	Here is a it's called
13	Doctor.	13	Epidemiology, Concepts and Methods.
14	I'm asking can you think of any	14	Do you see that, Doctor? I
15	as you sit here right now?	15	just included the cover page.
16	MS. MILLER: Objection. Asked	16	MS. MILLER: I'm going to
17	and answered.	17	object to this exhibit. It is two
18	THE WITNESS: Without us going	18	pages pulled from a book, and the
19	through the specifics, I can't answer	19	second page ends in the middle of a
20	that general question.	20	sentence.
21	QUESTIONS BY MR. TISI:	21	MR. TISI: I'm not asking that
22	Q. So do you agree that it is	22	question. Why don't you
23	well-understood that Hill's postulates are	23	MS. MILLER: I just don't think
24	ones in which experts will always apply	24	it's a proper exhibit.
25	professional judgment?	25	MR. TISI: I know you don't
23	professional judgment:	25	WIK. 1151. I know you don't
	Page 199		Page 201
1	Page 199 A. I don't what are you	1	Page 201 think so. You don't think anything is
1 2		1 2	
	A. I don't what are you referring to? Q. Well, let me ask you this: In		think so. You don't think anything is proper. But I'm going to ask why
2	A. I don't what are you referring to?	2	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my
2 3	A. I don't what are you referring to? Q. Well, let me ask you this: In	2 3	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my question, and then we can figure out
2 3 4	A. I don't what are you referring to? Q. Well, let me ask you this: In your report you refer oftentimes to a	2 3 4	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my
2 3 4 5	A. I don't what are you referring to? Q. Well, let me ask you this: In your report you refer oftentimes to a textbook by William Oleckno.	2 3 4 5	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my question, and then we can figure out whether or not I'm doing something improper or not.
2 3 4 5 6	A. I don't what are you referring to? Q. Well, let me ask you this: In your report you refer oftentimes to a textbook by William Oleckno. Do you know that	2 3 4 5 6	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my question, and then we can figure out whether or not I'm doing something
2 3 4 5 6 7	A. I don't what are you referring to? Q. Well, let me ask you this: In your report you refer oftentimes to a textbook by William Oleckno. Do you know that A. The textbook?	2 3 4 5 6 7	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my question, and then we can figure out whether or not I'm doing something improper or not.
2 3 4 5 6 7 8	A. I don't what are you referring to? Q. Well, let me ask you this: In your report you refer oftentimes to a textbook by William Oleckno. Do you know that A. The textbook? Q. Yeah.	2 3 4 5 6 7 8	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my question, and then we can figure out whether or not I'm doing something improper or not. MS. MILLER: I'm objecting to
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I don't what are you referring to? Q. Well, let me ask you this: In your report you refer oftentimes to a textbook by William Oleckno. Do you know that A. The textbook? Q. Yeah. A. I do know that textbook. Q. Okay. MS. MILLER: If we're going to move on to a new subject, lunch has been waiting for a while, so maybe MR. TISI: Well, I just opened up a can of worms here, so I'm going to just give me about five, ten minutes, and we'll get done with this section. QUESTIONS BY MR. TISI: Q. You cited it several times because you find that that is an authoritative textbook in the area of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	think so. You don't think anything is proper. But I'm going to ask why don't you wait until I ask my question, and then we can figure out whether or not I'm doing something improper or not. MS. MILLER: I'm objecting to the exhibit, not to the question. MR. TISI: Okay. That's fine. I'm objecting to your objections because I think they're ridiculous. MS. SHARKO: Please be professional. MR. TISI: Oh, I'm very professional, Counsel, except when somebody is an intrusive as Ms. Miller has been in any deposition I've been involved with. MS. SHARKO: That's so inappropriate. MR. TISI: I know you think it
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51 (Pages 198 to 201)

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Christian Merlo, M.D., MPH

	Page 202		Page 204
1	QUESTIONS BY MR. TISI:	1	association, correct? Temporal sequence,
2	Q. So there is a paragraph here on	2	temporality?
3	page 188, and I'm going to ask you whether	3	A. We're talking about that last
4	you agree with it or not, and I'm going to	4	sentence there?
5	ask you to read it.	5	Q. Yes, correct.
6	It says	6	A. "In the end, the process of
7	A. So what am I looking at here?	7	determining causation is largely subjective
8	Q. On page 188, Chapter 7.	8	except for the first guideline, which is
9	A. No, what is this exhibit?	9	actually a requirement."
10	Q. It is a it is a it is a	10	Q. And the first guideline is
11	page of Chapter 7, Association, Causation in	11	correct temporal sequence?
12	Epidemiology.	12	A. I'm not sure what it's
13	There's a chapter from	13	referring to, but I see "correct temporal
14	Dr. Oleckno's book.	14	sequence" right below that.
15	A. Okay. So I see a photocopy of	15	Q. All right. Do you disagree
16	what appears to be the cover of the book.	16	that the determination of causation is
17	Q. The first chapter the first	17	largely subjective, if using Hill's
18	page of the chapter.	18	postulates?
19	A. Of Chapter 7.	19	A. Can you ask that again?
20	Q. And there's a paragraph on	20	Q. Yeah.
21	Bradford Hill. Okay?	21	Do you believe that the
22	And I'm going to ask you about	22	ultimate decision on causation requires is
23	the paragraph that he writes on Bradford	23	a subjective look at the evidence?
24	Hill. It's the only paragraph that he talks	24	MS. MILLER: Objection.
25	about Bradford Hill.	25	THE WITNESS: I'm not I'm
45	doodt Biddioid IIIII.	_ 43	THE WITNESS. THI HOT THI
<u> </u>	ucoul Diagram IIII.	23	THE WITNESS. THI HOU THI
	Page 203	23	Page 205
1	Page 203 MS. MILLER: Objection. We	1	Page 205 sorry, I'm just not understanding what
1 2	Page 203 MS. MILLER: Objection. We MR. TISI: That's fine.	1 2	Page 205 sorry, I'm just not understanding what you're asking.
1	Page 203 MS. MILLER: Objection. We MR. TISI: That's fine. QUESTIONS BY MR. TISI:	1	Page 205 sorry, I'm just not understanding what you're asking. QUESTIONS BY MR. TISI:
1 2	Page 203 MS. MILLER: Objection. We MR. TISI: That's fine. QUESTIONS BY MR. TISI: Q. "On 1965, Sir Bradford Hill,	1 2	Page 205 sorry, I'm just not understanding what you're asking. QUESTIONS BY MR. TISI: Q. Okay. Do you agree with the
1 2 3	Page 203 MS. MILLER: Objection. We MR. TISI: That's fine. QUESTIONS BY MR. TISI: Q. "On 1965, Sir Bradford Hill, professor emeritus at the medical statistics	1 2 3	Page 205 sorry, I'm just not understanding what you're asking. QUESTIONS BY MR. TISI: Q. Okay. Do you agree with the sentence that the last sentence. "In the
1 2 3 4	Page 203 MS. MILLER: Objection. We MR. TISI: That's fine. QUESTIONS BY MR. TISI: Q. "On 1965, Sir Bradford Hill, professor emeritus at the medical statistics with the University of London, delivered a	1 2 3 4	Page 205 sorry, I'm just not understanding what you're asking. QUESTIONS BY MR. TISI: Q. Okay. Do you agree with the sentence that the last sentence. "In the
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1	relationship. It's a very, very general	1	Q. And Dr. Gordis, again, is
2	question	2	the was the head of the department for
3	Q. Okay.	3	epidemiology at Johns Hopkins, correct?
4	A and a photocopy of one page	4	A. You know, I don't remember. I
5	in a textbook that I don't have memorized.	5	know he taught one of my courses.
6	(Merlo Exhibit 23 marked for	6	Q. He's a big deal, isn't he?
7	identification.)	7	A. I can't remember if he was the
8	QUESTIONS BY MR. TISI:	8	head of the department of epidemiology.
9	Q. Well, let's look at exhibit	9	Q. He's a big deal. He was well
10	number let's look at Exhibit Number 23,	10	known, a well-known epidemiologist?
11	which is the textbook by Dr. Gordis. And I	11	A. I took his course, I mean, but
12	do have the whole chapter here, so feel free	12	I don't know what you mean by "big deal." I
13	to thumb through it.	13	don't
14	MS. MILLER: Is this a good	14	Q. You don't think he's okay.
15	time for lunch? You said it was just	15	Do you you don't understand what his
16	five minutes. It's been five minutes.	16	reputation was in the community?
17	MR. TISI: Okay.	17	A. Again
18	MS. MILLER: Do you want to do	18	MR. LOCKE: Objection.
19	that after lunch?	19	MS. MILLER: Objection.
20	MR. TISI: I would prefer to	20	QUESTIONS BY MR. TISI:
21	finish it now, but if you feel like	21	Q. Let me ask you what you
22	you're you absolutely need to have	22	think you're here for, candidly, is not as
23	lunch right now, if the witness does,	23	important to me as you answering my
24	I'm absolutely okay with that.	24	questions. Because what I may think
25	MS. MILLER: We've been going	25	important or you may think important and what
	Mat. Madata. We ve seen going		
	D 005		
	Page 207		Page 209
1	an hour and 40 minutes. That's a long	1	Page 209 Ms. Miller may think important are different.
1 2		1 2	Ms. Miller may think important are different. So I'm going to ask this
	an hour and 40 minutes. That's a long time. What do you think, Susan?	l	Ms. Miller may think important are different. So I'm going to ask this question: Do you have an understanding of
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2	an hour and 40 minutes. That's a long time. What do you think, Susan? MS. SHARKO: Yeah. MR. TISI: It's up to you. I	2 3	Ms. Miller may think important are different. So I'm going to ask this question: Do you have an understanding of the reputation of Dr. Gordis? MS. MILLER: Objection.
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53 (Pages 206 to 209)

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	Page 210		Page 212
1	QUESTIONS BY MR. TISI:	1	you have an opinion, I'm entitled to ask it.
2	Q. What is your assessment then?	2	Unless counsel tells you that you can't
3	MS. MILLER: Same objection.	3	answer it, you have to answer it.
4	THE WITNESS: What I can say	4	So my question is: Do you have
5	what I can say is that he was a	5	an opinion as to whether or not Dr from
6	professor of mine. I learned a great	6	your perspective, he is an authority in the
7	deal from the class that I took that	7	field of epidemiology?
8	he taught, and he was a member of the	8	MS. MILLER: Objection.
9	faculty at Johns Hopkins Bloomberg	9	MR. LOCKE: Objection.
10		10	
11	School of Public Health.	1	MS. MILLER: I'm going to
	But as far as reputation and	11	object on multiple grounds, one of
12	those things, that's I don't have	12	which is asked and answered.
13	an opinion about it.	13	THE WITNESS: He was a
14	QUESTIONS BY MR. TISI:	14	professor of mine who taught a course
15	Q. Do you consider him an	15	in Epidemiology I, we used his
16	authority?	16	textbook as one of the references
17	MS. MILLER: Objection.	17	during the class, and I had good
18	QUESTIONS BY MR. TISI:	18	interactions with him during the
19	Q. You personally consider him an	19	class. That's what I have to say
20	authority?	20	about Dr. Gordis.
21	MS. MILLER: Objection.	21	QUESTIONS BY MR. TISI:
22	THE WITNESS: I consider	22	Q. So let's look at Chapter 14,
23	Dr. Gordis a professor of mine.	23	Association to Causation: Deriving
24	QUESTIONS BY MR. TISI:	24	Inferences From Epidemiologic Studies.
25	Q. Well, he was a professor of	25	That's what we're doing here
	Page 211		Page 213
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2	yours, and so I'm asking you: Do you consider him to be an authority in the field	1 2	today, right? We're deriving we're seeing whether or not there's an inference from the
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	Page 214		Page 216
1	A. 250 now.	1	information needed for doing so. The
2	Q. Yeah.	2	preceding list should therefore be
3	A. 250. Okay. I got it.	3	considered should therefore be considered
4	Q. And see Table 14.1 in those	4	to be only guidelines that can be of most
5	lists, the five aspects excuse me the	5	value when coupled with reasoned judgment
6	nine aspects of Bradford Hill?	6	about the entire body of available evidence
7	A. Yeah, let me just look at them	7	in making decisions about causation."
8	because there are nine there. I just want to	8	Did I read that correctly?
9	make sure that those are the nine Bradford	9	A. Yes, you did.
10	Hill criteria.	10	Q. Okay. Do you agree with that
11	MR. LOCKE: Objection to the	11	statement?
12	use of this exhibit.	12	MS. MILLER: Objection.
13	THE WITNESS: So I see these	13	MR. LOCKE: Objection.
14	nine I see Table 14.1 stating	14	THE WITNESS: I mean, there are
15	"guidelines for judging whether an	15	so many statements in there, you'd
16	observed association is causal," and I	16	have to ask me specifically if I agree
17	see nine lines there.	17	or disagree with
18	But there are some lines that	18	QUESTIONS BY MR. TISI:
19	are not necessarily those that are	19	Q. Well, do you agree with the
20	those that Bradford Hill spoke about	20	statement that reasoned judgment is important
21	in his article.	21	when interpreting epidemiologic evidence?
22	QUESTIONS BY MR. TISI:	22	MS. MILLER: Objection.
23		23	THE WITNESS: I didn't write
24	Q. Okay. So if you go to the last after discussing the nine that he	24	this, and I don't know exactly what
25		25	the definition of reasoned judgment
25	discusses, at the very end it has a	25	the definition of reasoned judgment
	Page 215		Page 217
1	conclusion.	1	in that's a very vague term.
2	A. Who are you referring to,	2	QUESTIONS BY MR. TISI:
3	Dr. Gordis or	3	Q. Okay.
4	Q. Dr. Gordis.	4	A. And it's going to be impossible
5	A Bradford Hill?	5	to answer that, because I don't know what the
6	Q. Dr. Gordis. At the conclusion	6	definition of reasoned judgment is.
7	on page 260.	7	(Merlo Exhibit 24 marked for
8	A. So we're going to 260 now?	8	identification.)
9	Q. Uh-huh.	9	QUESTIONS BY MR. TISI:
10	A. Okay. 260.	10	Q. Okay. That's fine.
11	Q. Right.	11	Go to page we'll discuss
12	There's a conclusion there,	12	this real quickly.
13	right?	13	Oh. On page 2 of your report,
14	A. I see "conclusion," the word,	14	footnote 1, you refer to a lesson from the
15	yes.	15	CDC publication. I'd like to mark that as
16	Q. Okay. And I'm going to read	16	Exhibit Number 24.
17	it the paragraph in the conclusion and see	17	A. Where are we now?
18	whether you agree with it.	18	Q. Page 2 of your report, footnote
19	"Although causal guidelines	19	1.
20	discussed in this chapter are often referred	20	A. Correct. Yes. I have it.
21	to as criteria, the term does not seem	21	Q. It refers to a CDC publication?
22	entirely appropriate. Although it may be a	22	A. That's correct.
23	desirable goal to place causal inferences on	23	Q. Okay? I marked that as Exhibit
24	a firm quantitative and structural	24	Number 24.
25	foundation, at present we do not have all the	25	I assume that this is something

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	Page 218		Page 220
1	that you read before you cited it in your	1	action based on this science and causal
2	report?	2	reasoning."
3	MR. LOCKE: Objection.	3	Do you see that?
4	THE WITNESS: So this	4	A. I do see that.
5	this	5	Q. Okay.
6	QUESTIONS BY MR. TISI:	6	A. And that's why I put this
7	Q. Actually, it's a very simple	7	definition in
8	question: I assume you read it before citing	8	Q. Okay.
9	it?	9	A when I was defining
10	A. I did look at this website from	10	epidemiology, because I said that it's "the
11	the CDC. This definition actually comes out	11	study of the distribution and determinants of
12	of several textbooks, and the reference from	12	health-related states or events in specific
13	those	13	populations and the application of this study
14	Q. Doctor, I didn't ask you that	14	to control health problems."
15	question. I asked you whether you	15	Q. Right.
16	A. I'm giving you an answer.	16	A. And that's what I was looking
17	Q. I just asked you whether you	17	for, is a definition
18	read it.	18	Q. And it also and it also uses
19	A. And so I'm giving you an	19	the word "causal reasoning."
20	answer.	20	A. If I could just finish
21	Where I found this definition	21	Q. Well, I understand, but
22	was in several textbooks. When I looked back	22	A because I'm giving you an
23	to the reference, it referenced this lesson.	23	answer.
24	Did I read this entire thing?	24	Q. You're not I asked you about
25	I don't recall. I know that I did look this	25	a particular sentence. Okay? I didn't ask
	Page 219		Page 221
1	up on the CD's website CDC's website and	1	you why you used it. I didn't ask you you
2	did take this definition from one or the	2	need to I'm perfectly happy to let you
3	entirety of those of those references, and	3	answer the question, but I'm also it's
4	I don't specifically remember where.	4	also important that you listen to my
5	Q. Okay. You cited it, and so	5	question. Okay?
6	let's go through it. Okay?	6	My question is: Do you agree
7	On page 1 it says,	7	with the statement that I just read?
8	"Epidemiology is just is not just a	8	I didn't ask you why. I didn't
9	research activity but an integral component	9	ask how. I didn't ask you what you did to do
10	of public health providing the foundation for	10	get there. I simply asked you whether you
11	directing practical and appropriate public	11	agree with it.
12	health action based upon this science and	12	MR. LOCKE: Objection.
13	causal reasoning."	13	MS. MILLER: Objection.
1			
14	MS. MILLER: Do you know where	14	Assuming that was a question
15	he is?	15	and not a speech. I'm
15 16	he is? THE WITNESS: I'm sorry, where	15 16	and not a speech. I'm MR. TISI: It was a speech,
15 16 17	he is? THE WITNESS: I'm sorry, where are you?	15 16 17	and not a speech. I'm MR. TISI: It was a speech, actually.
15 16 17 18	he is? THE WITNESS: I'm sorry, where are you? QUESTIONS BY MR. TISI:	15 16 17 18	and not a speech. I'm MR. TISI: It was a speech, actually. MS. MILLER: Oh. I'm objecting
15 16 17 18 19	he is? THE WITNESS: I'm sorry, where are you? QUESTIONS BY MR. TISI: Q. The last sentence on the first	15 16 17 18 19	and not a speech. I'm MR. TISI: It was a speech, actually. MS. MILLER: Oh. I'm objecting to it as a speech.
15 16 17 18 19 20	he is? THE WITNESS: I'm sorry, where are you? QUESTIONS BY MR. TISI: Q. The last sentence on the first page.	15 16 17 18 19 20	and not a speech. I'm MR. TISI: It was a speech, actually. MS. MILLER: Oh. I'm objecting to it as a speech. MR. TISI: Fine.
15 16 17 18 19 20 21	he is? THE WITNESS: I'm sorry, where are you? QUESTIONS BY MR. TISI: Q. The last sentence on the first page. I'll read it again.	15 16 17 18 19 20 21	and not a speech. I'm MR. TISI: It was a speech, actually. MS. MILLER: Oh. I'm objecting to it as a speech. MR. TISI: Fine. QUESTIONS BY MR. TISI:
15 16 17 18 19 20 21 22	he is? THE WITNESS: I'm sorry, where are you? QUESTIONS BY MR. TISI: Q. The last sentence on the first page. I'll read it again. "Epidemiology is not just a research activity	15 16 17 18 19 20 21 22	and not a speech. I'm MR. TISI: It was a speech, actually. MS. MILLER: Oh. I'm objecting to it as a speech. MR. TISI: Fine. QUESTIONS BY MR. TISI: Q. So now I'm going to ask you the
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15 16 17 18 19 20 21 22	he is? THE WITNESS: I'm sorry, where are you? QUESTIONS BY MR. TISI: Q. The last sentence on the first page. I'll read it again. "Epidemiology is not just a research activity	15 16 17 18 19 20 21 22	and not a speech. I'm MR. TISI: It was a speech, actually. MS. MILLER: Oh. I'm objecting to it as a speech. MR. TISI: Fine. QUESTIONS BY MR. TISI: Q. So now I'm going to ask you the

56 (Pages 218 to 221)

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	Page 222		Page 224
1	MS. MILLER: Objection.	1	epidemiologist uses the scientific methods of
2	THE WITNESS: I would like to	2	descriptive and analytic epidemiology as well
3	preface this by saying I am listening	3	as experience, epidemiologic judgment and
4	to your questions.	4	understanding of local conditions in
5	QUESTIONS BY MR. TISI:	5	diagnosing the health of a community and
6	Q. Okay. So I'm going to ask you	6	proposing appropriate practical and
7	to listen closer because the answers are not	7	acceptable public health interventions to
		8	
8	answering my question.	1	control and prevent disease in a community."
9	So now let me ask you this	9	First of all, did I read that
10	question	10	right?
11	MR. LOCKE: Objection.	11	A. You did read that correctly off
12	QUESTIONS BY MR. TISI:	12	the page.
13	Q again, and it's a very	13	Q. Does it use the word does it
14	simple one.	14	make the statement that it that
15	Do you agree with the following	15	epidemiologists use scientific methods of
16	statement, quote, "Epidemiology is not just a	16	descriptive and analytic epidemiology as well
17	research activity but an integral component	17	as experience and epidemiologic judgment?
18	of public health, providing the foundation	18	Does it not say that?
19	for directing practical and appropriate	19	MS. MILLER: Objection.
20	public health action based on this science	20	THE WITNESS: It says,
21	and causal reasoning, close quote."	21	"Similarly, the epidemiologist uses
22	Do you agree with that?	22	the scientific methods of descriptive
23	A. It's a statement that's in	23	and analytic epidemiology as well as
24	this off the website.	24	experience, epidemiologic judgment and
25	Q. And do you agree with it?	25	understanding of local conditions in
	(a a a y a a a g a a a a a a		č
		1	
	Page 223		Page 225
1		1	
	A. I mean, there's so many aspects	I	diagnosing the health of a community
2	A. I mean, there's so many aspects to that statement	2	diagnosing the health of a community and proposing appropriate practical
2	A. I mean, there's so many aspects to that statement Q. I understand.	2 3	diagnosing the health of a community and proposing appropriate practical and acceptable public health
2 3 4	 A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to 	2 3 4	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent
2 3 4 5	 A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It 	2 3 4 5	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community."
2 3 4 5 6	 A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. 	2 3 4 5 6	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI:
2 3 4 5 6 7	 A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. A. I didn't write it, so I 	2 3 4 5 6 7	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI: Q. Do you agree with it?
2 3 4 5 6 7 8	A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. A. I didn't write it, so I Q. Now let's go to the end where	2 3 4 5 6 7 8	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI: Q. Do you agree with it? A. I mean, in general, that seems
2 3 4 5 6 7 8 9	A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. A. I didn't write it, so I Q. Now let's go to the end where it says, "Application" on the last page	2 3 4 5 6 7 8	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI: Q. Do you agree with it? A. I mean, in general, that seems like a statement that that's why we use
2 3 4 5 6 7 8 9	A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. A. I didn't write it, so I Q. Now let's go to the end where it says, "Application" on the last page before the summary.	2 3 4 5 6 7 8 9	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI: Q. Do you agree with it? A. I mean, in general, that seems like a statement that that's why we use epidemiology.
2 3 4 5 6 7 8 9 10	A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. A. I didn't write it, so I Q. Now let's go to the end where it says, "Application" on the last page before the summary. Application. Do you see the	2 3 4 5 6 7 8 9 10	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI: Q. Do you agree with it? A. I mean, in general, that seems like a statement that that's why we use epidemiology. Q. Okay.
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2 3 4 5 6 7 8 9 10 11 12 13	A. I mean, there's so many aspects to that statement Q. I understand. A that make it difficult to agree or disagree with. It depends. It Q. Okay. A. I didn't write it, so I Q. Now let's go to the end where it says, "Application" on the last page before the summary. Application. Do you see the paragraph? Let's see if we can read it together. "Epidemiology is not just the	2 3 4 5 6 7 8 9 10 11 12 13	diagnosing the health of a community and proposing appropriate practical and acceptable public health interventions to control and prevent disease in the community." QUESTIONS BY MR. TISI: Q. Do you agree with it? A. I mean, in general, that seems like a statement that that's why we use epidemiology. Q. Okay. A. I didn't write this. There's no reference there. There's this is a very, very general statement.
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57 (Pages 222 to 225)

	Page 226		Page 228
1	QUESTIONS BY MR. TISI:	1	epidemiology.
2	Q. Well, okay. You make a lot of	2	QUESTIONS BY MR. TISI:
3	statements in your report that aren't cited	3	Q. Understood. I get it. I get
4	either, don't you?	4	it.
5	We just talked about the	5	Now I'm asking you: In the
6	statistical significance paragraph, the one	6	document that you cited is another statement.
7	that's important to note. There was not a	7	Do you agree with it or not agree with it?
8	citation there either, right?	8	MS. MILLER: Objection.
9	MR. LOCKE: Objection.	9	QUESTIONS BY MR. TISI:
10	MS. MILLER: Objection.	10	Q. And if you don't agree with it,
11	THE WITNESS: In that instance	11	I want to know why. And if you do agree with
12	there was not a citation.	12	it, I'm fine with it.
13	QUESTIONS BY MR. TISI:	13	MS. MILLER: Okay. So what's
14	Q. Okay. So the fact that there's	14	the question? Because I
15	no citation, does that make your the	15	QUESTIONS BY MR. TISI:
16	opinion you express in your report invalid?	16	Q. Do you agree with it, or do you
17	A. Not necessarily.	17	don't agree with it?
18	Q. Okay. So	18	MS. MILLER: Objection. Asked
19	A. But	19	and answered.
20	Q. I want to ask you about this	20	THE WITNESS: I think in
21	statement.	21	general it's such a general
22	A. I	22	statement that it depends. It depends
23	Q. Well, I want to ask you about	23	on what we're talking about. It
24	this statement. You answered my question,	24	depends on what the study is doing.
25	saying that there's no	25	It's so general that there's no
			Page 229
	1430 227		
1		1	
1	A. No, I didn't. No, I didn't. I	1	way to agree or disagree with it.
2	didn't finish. And	2	way to agree or disagree with it. QUESTIONS BY MR. TISI:
2	didn't fînish. And Q. Doctor	2 3	way to agree or disagree with it. QUESTIONS BY MR. TISI: Q. Okay. Well, I guess the CDC
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	Page 230		Page 232
1	You mentioned before that you	1	THE WITNESS: No, we'd have to
2	believe that anorexigens, fenfluramine and	2	look back through the records.
3	dexfenfluramine, can cause primary pulmonary	3	(Merlo Exhibit 25 marked for
4	hypertension, correct?	4	identification.)
5	You remember that testimony?	5	QUESTIONS BY MR. TISI:
6	MR. LOCKE: Objection.	6	Q. My question to you is this:
7	MS. MILLER: Objection. I	7	Did you do the same kind of rigorous analysis
8	don't think that characterizes his	8	of this study that you did of the studies
9	testimony accurately.	9	involving talc?
10	THE WITNESS: As a clinician,	10	MS. MILLER: Objection.
11	when I see patients who have been	11	THE WITNESS: My the reason
12	diagnosed with pulmonary hypertension,	12	that I included this study in my
13	asking about anorexigens is part of my	13	report was because was to was to
14	clinical evaluation because of studies	14	highlight a strength of association.
15	that have looked into the association.	15	QUESTIONS BY MR. TISI:
16	QUESTIONS BY MR. TISI:	16	Q. I understand.
17	Q. Okay. So and I think you	17	A. And an odds ratio of 6.3 that
18	testified before, and the record will reflect	18	actually increases to well, I could look
19	what you testified to, but I think you did	19	here to 23.1 when the drugs were used for
20	testify before that you believed on balance	20	more than three months is a high strength of
21	that there is cause and effect there. But	21	association.
22	the record will be what the record is.	22	Q. Okay.
23	Let me ask you this: Are you	23	A. So the reason that I included
24	aware first of all, this is a case-control	24	it was to make the point that it is very,
25	study, correct?	25	very, very difficult, almost impossible, to
	•		
	Page 231		Page 233
1	A. It is a case-control study.	1	explain away an odds ratio of 23.1 by some
2	Q. Subject to all the same biases	2	other factor, bias or confounding.
3	that you discussed with respect to the	3	Q. It's funny because I was
4	case-control studies in this case, correct?	4	involved in the litigation involving that,
5	MS. MILLER: Objection.	5	and that's exactly what experts like you
6	THE WITNESS: So some of the	6	said.
7	biases. But we have to remember that	7	But we'll go back let me go
8	this is a medication study, and so the	8	back and ask you this question, Doctor.
9	medications can be looked at in the	9	MS. MILLER: Objection.
10	record, they can be looked as whether	10	MR. LOCKE: Objection.
11	or not someone's been prescribed them.	11	QUESTIONS BY MR. TISI:
12	So it is a little bit different	12	Q. Do you know
13	there in that this is not just	13	MS. MILLER: Enough with the
14	recalling back, this is you can	14	speeches. "Experts like you"? What
15	look to see whether or not people were	15	does that even mean?
16	on medications.	16	MR. TISI: Experts like you,
17	QUESTIONS BY MR. TISI:	17	hired by the companies. Experts like
18	Q. Do you know whether they did	18	you.
19	that?	19	QUESTIONS BY MR. TISI:
20	A. I'd have to read the article	20	Q. Let me ask you
21	again.	21	MR. LOCKE: Objection.
22	Q. Okay. Well, you're just	22	QUESTIONS BY MR. TISI:
23	speculating right now as you're talking?	23	Q. Let me ask you
24	MR. LOCKE: Objection.	24	MS. SHARKO: Please behave the
25	MS. MILLER: Objection.	25	way you would in court.
	3	1	* *

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	Page 234		Page 236
1	THE WITNESS: So I've never	1	ratio for you, Dr. Merlo, to say you don't
2	been hired by a company	2	need a second one, it's enough?
3	QUESTIONS BY MR. TISI:	3	MS. MILLER: Objection.
4	Q. Okay.	4	MR. LOCKE: Objection.
5	A to evaluate primary	5	THE WITNESS: So, again, I'm
6	pulmonary hypertension drugs. So I would	6	going to say it depends. It depends
7	appreciate you not labeling me as something	7	on not only the study design, but I
8	that I am not.	8	was going to finish with how the study
9		9	
	Q. Okay. So let me ask you this,		was conducted. But what plans were
10	Doctor: Are you aware that there was no	10	taken to try to limit bias, what plans
11	first of all, are you aware there's no cohort	11	were taken in the analysis to try to
12	studies involving primary pulmonary	12	adjust for potential confounding, and
13	hypertension anorexigen use?	13	what was done in the analysis. And
14	A. So I'm aware of cohort studies	14	that it depends. It depends on all
15	that have followed patients with pulmonary	15	those things.
16	hypertension, but I'm not aware that they	16	QUESTIONS BY MR. TISI:
17	looked at exposures over time in cohort	17	Q. Let's go to your report at the
18	studies.	18	end the summary paragraph, and we'll go
19	Q. Were you aware that there are	19	elsewhere. I want to address your opinions
20	no other case-control studies; in fact, this	20	about the so-called hierarchy of evidence.
21	is the only one?	21	A. Sure.
22	MR. LOCKE: Objection.	22	Q. On page 46.
23	THE WITNESS: Again, I would	23	A. 46, I got it.
24	have to review the medical literature	24	MS. MILLER: I'm going to
25	to	25	object to that speech.
	10	23	object to that speech.
	Daga 225		
	Page 235		Page 237
1	QUESTIONS BY MR. TISI:	1	Page 237 QUESTIONS BY MR. TISI:
1 2	QUESTIONS BY MR. TISI:	1 2	
	QUESTIONS BY MR. TISI: Q. Would it surprise you?		QUESTIONS BY MR. TISI: Q. You say
2	QUESTIONS BY MR. TISI: Q. Would it surprise you? A. I'm sorry?	2	QUESTIONS BY MR. TISI:
2 3 4	QUESTIONS BY MR. TISI: Q. Would it surprise you? A. I'm sorry? Q. Would it surprise you to know	2 3 4	QUESTIONS BY MR. TISI: Q. You say MR. TISI: No speech.
2 3 4 5	QUESTIONS BY MR. TISI: Q. Would it surprise you? A. I'm sorry? Q. Would it surprise you to know that this is not the that this is the only	2 3 4 5	QUESTIONS BY MR. TISI: Q. You say MR. TISI: No speech. QUESTIONS BY MR. TISI:
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	Page 238		Page 240
1	that there is a hierarchy of evidence.	1	A. And the reason for that is that
2	QUESTIONS BY MR. TISI:	2	there's thought that when a hospital-based
3	Q. Okay. And you also believe	3	case-control study is done, cases and
4	that within case-control studies that	4	controls think about the past in the same
5	hospital-based studies are more reliable than	5	amount; whereas when we have population-based
6	population-control studies?	6	case-control studies, there may be
7	MS. MILLER: Objection.	7	difference differences in recall between
8	THE WITNESS: What are you	8	cases and controls. And that's the
9	referring to?	9	definition of recall bias.
10	QUESTIONS BY MR. TISI:	10	MR. TISI: Okay. I'm going to
11	Q. I'm asking you say here	11	move to strike.
12	MS. MILLER: Can you tell us	12	QUESTIONS BY MR. TISI:
13	what page you're on?	13	Q. My question was in terms of
14	MR. TISI: 46.	14	evidentiary value. Do you place
15	MS. MILLER: Thanks.	15	hospital-based studies having more give
16	Do you have your report?	16	them more weight as a study design than
17	QUESTIONS BY MR. TISI:	17	population-based case-control study designs?
18	Q. In your report you talk about	18	MR. LOCKE: Objection.
19	the merits of hospital-based studies	19	QUESTIONS BY MR. TISI:
20	versus which in your view showed no	20	Q. For whatever reason. I don't
21	association, and the case-control studies,	21	care what the reason is now.
22	some of which showed an association, the	22	MS. MILLER: Objection.
23	population-based ones?	23	THE WITNESS: So I'll say it
24	MS. MILLER: Is that a	24	depends.
25	question?	25	QUESTIONS BY MR. TISI:
	1		
	Page 239		Page 241
1	MR. TISI: Yes.	1	Q. Okay.
2	MS. MILLER: Objection.	2	A. And it depends on the how
3	THE WITNESS: Can you can	3	the study is put together. It depends on
4	you ask that again? Because I didn't	4	what the study investigators used to tried to
5	understand that was a question.	5	limit bias and what the study investigators
6	QUESTIONS BY MR. TISI:	6	tried to use to limit confounding.
7	Q. Let me ask you directly.	7	If a poorly designed
8	In terms of reliability, do you	8	hospital-based study may not be as good as a
9	think that hospital-based studies are more	9	very well-designed population-based study and
10	reliable than population-based case-control	10	vice versa.
11	studies?	11	Q. In terms of I'm sorry.
12	MS. MILLER: Objection.	12	A. But if we're talking about
13	THE WITNESS: I don't know if	13	serious limitations in case-control studies,
14	more reliable I don't know if	14	recall bias is one of them.
15	"reliable" is the right term. It's	15	And it's an accepted thought
16	not a term we use in evaluating the	16	that recall bias is less in hospital-based
17	literature.	17	case-control studies when compared to
18	But there is some suggestion	18	population-based studies.
19	that hospital-based case-control	19	Q. What's your citation for that?
20	studies might be less susceptible to	20	A. I would have to look through.
21	recall bias, and recall bias is a	21	I know I talked about it in my report, but I
22	tremendous limitation in case-control	22	have to if you give me a couple seconds,
23	studies of all kinds.	23	I'll look through that.
24	QUESTIONS BY MR. TISI:	24	MS. MILLER: Do you know what
24	OURATIONS BY MR 1131		
25	Q. Okay.	25	page it's on, Counsel?

61 (Pages 238 to 241)

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	Page 242		Page 244
1	MR. TISI: Nope.	1	cases and controls are patients, for
2	MS. MILLER: I do.	2	example, in hospitalized patients."
3	MR. TISI: Good for you.	3	QUESTIONS BY MR. TISI:
4	MS. MILLER: May I say that to	4	Q. Is there a citation to it?
5	cut to the chase?	5	A. There is, Schultz and Grimes.
6	MR. TISI: No, I don't want	6	Q. Okay.
7	MS. MILLER: You want him to	7	A. "Where the degree of thinking
8	read through every page? Okay.	8	about a possible exposure outcome is likely
9	MR. TISI: I don't want him to	9	to be at similar levels."
10	read every page, but I don't want you	10	Q. Okay. All right. So going
11	to coach your witness. Because I	11	back to the hierarchy of evidence concept
12	noticed before that you were circling	12	because you mentioned that several times
13	things while he was looking at it, so	13	throughout your report, true?
14	I don't want to do it anymore.	14	A. You've asked me several times
15	MR. LOCKE: Objection.	15	about it, and I have talked about the
16	MS. SHARKO: That's really	16	hierarchy evidence in my report.
17	•	17	
18	inappropriate MR. TISI: I understand it's	18	Q. Okay. Well, let's talk about the places where you do talk about it.
			· ·
19	MS. SHARKO: Mr. Tisi, and	19	You mentioned it in your
20	it's not true.	20	conclusion. We talked about that.
21	MR. TISI: The video will	21	Can you go to page 27 of your
22	demonstrate that it is true.	22	report?
23	MR. LOCKE: It's false. She	23	A. Sure.
24	was circling something on the left	24	Q. At the very bottom of the page
25	side away from the witness.	25	it says, "While cohort studies have their own
	Page 243		Page 245
	rage 243		Page 245
1		1	
1 2	MR. TISI: Okay.	1 2	limitations like any other study design, the
	MR. TISI: Okay. MS. MILLER: To show to Susan.		limitations like any other study design, the focused criticism of cohort studies by
2 3	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer	2	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they
2 3 4	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the	2 3 4	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than
2 3 4 5	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness.	2 3 4 5	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased
2 3 4 5 6	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused	2 3 4 5 6	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis."
2 3 4 5 6 7	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table,	2 3 4 5 6 7	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that?
2 3 4 5 6 7 8	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely	2 3 4 5 6 7 8	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do.
2 3 4 5 6 7 8 9	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate.	2 3 4 5 6 7 8	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's
2 3 4 5 6 7 8 9	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand	2 3 4 5 6 7 8 9	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts
2 3 4 5 6 7 8 9 10	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that.	2 3 4 5 6 7 8 9 10	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct?
2 3 4 5 6 7 8 9 10 11	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect.	2 3 4 5 6 7 8 9 10 11	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection.
2 3 4 5 6 7 8 9 10 11 12	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned	2 3 4 5 6 7 8 9 10 11 12 13	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned that a number of times. MR. TISI: And incorrect. And	2 3 4 5 6 7 8 9 10 11 12 13 14 15	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I didn't accuse anything. I'm suggesting.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned that a number of times. MR. TISI: And incorrect. And incorrect and wrong and	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I didn't accuse anything. I'm suggesting. QUESTIONS BY MR. TISI:
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned that a number of times. MR. TISI: And incorrect. And incorrect and wrong and unprofessional. We're sitting at a conference table. MS. SHARKO: All right. So let's have a truce on the personal	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I didn't accuse anything. I'm suggesting. QUESTIONS BY MR. TISI: Q. Okay. You're suggesting. Do you believe that they used a biased methodology? A. I'm sorry.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned that a number of times. MR. TISI: And incorrect. And incorrect and wrong and unprofessional. We're sitting at a conference table. MS. SHARKO: All right. So let's have a truce on the personal attacks and just take your deposition.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I didn't accuse anything. I'm suggesting. QUESTIONS BY MR. TISI: Q. Okay. You're suggesting. Do you believe that they used a biased methodology?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned that a number of times. MR. TISI: And incorrect. And incorrect and wrong and unprofessional. We're sitting at a conference table. MS. SHARKO: All right. So let's have a truce on the personal attacks and just take your deposition. MR. TISI: Perfect. Perfect.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I didn't accuse anything. I'm suggesting. QUESTIONS BY MR. TISI: Q. Okay. You're suggesting. Do you believe that they used a biased methodology? A. I'm sorry. Q. Did you believe that they used a biased methodology?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. TISI: Okay. MS. MILLER: To show to Susan. MS. SHARKO: With her computer open between Ms. Miller and the witness. MR. TISI: Well, I was accused before of kicking under the table, which I thought was absolutely inappropriate. MS. SHARKO: We understand that. MR. TISI: And incorrect. MS. SHARKO: You've mentioned that a number of times. MR. TISI: And incorrect. And incorrect and wrong and unprofessional. We're sitting at a conference table. MS. SHARKO: All right. So let's have a truce on the personal attacks and just take your deposition. MR. TISI: Perfect. Perfect. THE WITNESS: So on page 6, the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	limitations like any other study design, the focused criticism of cohort studies by plaintiffs' epidemiologists, even though they generally are considered more reliable than case-control studies, suggesting a biased approach to their analysis." Do you see that? A. I do. Q. Okay. First of all, that's another example where you accused our experts of being biased, correct? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I didn't accuse anything. I'm suggesting. QUESTIONS BY MR. TISI: Q. Okay. You're suggesting. Do you believe that they used a biased methodology? A. I'm sorry. Q. Did you believe that they used a biased methodology? MS. MILLER: Objection.

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	Page 246		Page 248
1	considered more reliable than	1	generally accepted that they are more
2	case-control studies suggests a biased	2	reliable than case-control studies," meaning
3	approach to their analysis."	3	cohort studies, true?
4	QUESTIONS BY MR. TISI:	4	MR. LOCKE: Objection.
5	Q. Do you believe that they did?	5	THE WITNESS: Can you state
6	MS. MILLER: Objection.	6	that as a question?
7	THE WITNESS: I'm just going to	7	QUESTIONS BY MR. TISI:
8	read what I said.	8	Q. Yes.
9	MS. MILLER: Asked and	9	Do you state that cohort
10	answered.	10	studies here are more reliable than
11	QUESTIONS BY MR. TISI:	11	case-control studies?
12	Q. I understand you read what you	12	MS. MILLER: Objection.
13	said. This is my opportunity to ask you	13	THE WITNESS: So it depends.
14	questions about what you wrote. I can read	14	In general, cohort studies, as I
15	what you said, too.	15	talked about earlier, when performed
16	Okay. So my question to you	16	appropriate when designed
17	is: Do you believe that they used a biased	17	appropriately, when performed
18	approach	18	appropriately, when analyzed
19	MS. MILLER: Objection.	19	appropriately, do fall higher up on
20	QUESTIONS BY MR. TISI:	20	the hierarchy of evidence when
21	Q to their analysis?	21	compared to case-control studies.
22	A. What I'm saying is that	22	QUESTIONS BY MR. TISI:
23	Q. I'm not asking what you said.	23	Q. On page 35, you have a whole
24	I'm asking what your opinion is now, Doctor.	24	section about the disregard of hierarchy of
25	Is your opinion, if I close	25	evidence.
	Page 247		Page 249
1	Page 247 this book and we don't read what you said,	1	Page 249 Do you see that?
1 2		1 2	
	this book and we don't read what you said,		Do you see that?
2	this book and we don't read what you said, I'm asking you, do you think that they used a	2	Do you see that? A. I do see the disregard for
2	this book and we don't read what you said, I'm asking you, do you think that they used a biased approach in looking at the	2 3	Do you see that? A. I do see the disregard for hierarchy of evidence. Q. And you're referring, again, to
2 3 4	this book and we don't read what you said, I'm asking you, do you think that they used a biased approach in looking at the case-control studies and the cohort studies?	2 3 4	Do you see that? A. I do see the disregard for hierarchy of evidence.
2 3 4 5	this book and we don't read what you said, I'm asking you, do you think that they used a biased approach in looking at the case-control studies and the cohort studies? MS. MILLER: He was in the	2 3 4 5	Do you see that? A. I do see the disregard for hierarchy of evidence. Q. And you're referring, again, to the methodologic flaw of plaintiffs' experts,
2 3 4 5 6	this book and we don't read what you said, I'm asking you, do you think that they used a biased approach in looking at the case-control studies and the cohort studies? MS. MILLER: He was in the middle of answering, and you interrupted him to ask the question	2 3 4 5 6	Do you see that? A. I do see the disregard for hierarchy of evidence. Q. And you're referring, again, to the methodologic flaw of plaintiffs' experts, which is the main Section 8 above, correct? A. Can you show me what you're
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	Page 250		Page 252
1	case-control studies, they're just not	1	National Health Medical Research Council is?
2	equal. I mean, cohort studies are	2	MR. LOCKE: Objection.
3	following subjects	3	THE WITNESS: I do not know who
4	QUESTIONS BY MR. TISI:	4	the National Health and Medical
5	Q. Wasn't what I asked. So,	5	Research Council are.
6	Doctor, sorry. I wasn't asking your opinion	6	QUESTIONS BY MR. TISI:
7	about case control and cohort.	7	Q. Did you get this document from
8	I'm asking you: Did the	8	the defense lawyers or did you find it on
9	plaintiffs' experts not what your views	9	your own?
10	are. Did, in your opinion, plaintiffs'	10	A. I found this myself.
11	experts disregard the hierarchy of evidence?	11	Q. Okay. Without but you don't
12	MR. LOCKE: Objection.	12	know who these people are?
13	MS. MILLER: Objection.	13	A. I don't know who a lot of
14	THE WITNESS: So and I'll	14	people are that publish things.
15	say that in general the hierarchy of	15	Q. Well, you don't know what this
16	evidence does place cohort studies	16	organization is, do you?
17	above the case-control studies. And	17	A. No, I don't.
18	to treat those studies equally in	18	Q. Okay. So but you say
19	looking at the body of evidence would	19	here the only thing you cite for that is
20	be disregarding the hierarchy of	20	this Australian document.
21	evidence.	21	Can you tell me why you didn't
22	QUESTIONS BY MR. TISI:	22	go to any of the textbooks that you use at
23	Q. Okay. And you say, "The	23	Hopkins to cite this well-established
24	hierarchy of evidence is well-established in	24	principle?
25	the scientific community." And that's where	25	A. No.
	- 054		
	Page 251		Page 253
1	Page 251 you cite the National Health and Research	1	Page 253 MR. LOCKE: Objection.
1 2		1 2	
	you cite the National Health and Research	1	MR. LOCKE: Objection. THE WITNESS: I mean, I could
2	you cite the National Health and Research Council.	2	MR. LOCKE: Objection.
2 3	you cite the National Health and Research Council. And that's that Australian white paper that we talked about before,	2 3	MR. LOCKE: Objection. THE WITNESS: I mean, I could have gone to textbooks, but I didn't.
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64 (Pages 250 to 253)

Christian Merlo, M.D., MPH

	Page 254		Page 256
1	A. Yes.	1	A. So I wasn't I wasn't
2	Q. Okay. So in your whole report,	2	involved in any of the design of the cohort
3	the only thing you cited was this Australian	3	studies, but one of the beauties of a cohort
4	document, which we've marked as Exhibit	4	study is you actually don't need that.
5	Number 26, on this fundamental principle,	5	Q. Okay.
6	right?	6	A. And what you do is you follow
7	MR. LOCKE: Objection.	7	patients over time, and sometimes things come
8	MS. MILLER: Objection.	8	up. And you might add a questionnaire in and
9	QUESTIONS BY MR. TISI:	9	then follow because you have a large group of
10	Q. Because I don't see any other	10	people that you're following over time. You
11	citation in any other place other than this	11	have a time zero with some measurement, and
12	Australian document from the organization you	12	then an outcome that develops. And that's
13	know who they are.	13	that's the purpose of a cohort study
14	A. That's the citation I used. I	14	Q. How long
15	teach about this in class. I've been taught	15	A that you don't need to have
16	about it in class.	16	one hypothesis.
17	Q. Okay.	17	Q. How large would a study have
18	A. You're welcome to take my class	18	you done any power calculations to determine
19	and see the slides.	19	how large a study would have to be in order
20	Q. I think I'm gonna.	20	to accurately collect information that would
21	Putting aside your concern	21	be useful in determining where there's
22	about how the experts weighed the talc	22	association?
23	studies, you believe that the cohort design	23	MR. LOCKE: Objection.
24	is the best for measuring ovarian cancer?	24	THE WITNESS: I don't
25	MS. MILLER: Objection.	25	understand your question. It doesn't
	Page 255		Page 257
1	THE WITNESS: Again, it	1	make sense.
1 2	THE WITNESS: Again, it depends. It depends on the how the	1 2	make sense. QUESTIONS BY MR. TISI:
1 2 3	depends. It depends on the how the		QUESTIONS BY MR. TISI:
2	depends. It depends on the how the study is set up. It depends on	2	QUESTIONS BY MR. TISI: Q. How large? How large would a
2	depends. It depends on the how the study is set up. It depends on what it depends on how long someone	2 3	QUESTIONS BY MR. TISI: Q. How large? How large would a study have to be?
2 3 4	depends. It depends on the how the study is set up. It depends on	2 3 4	QUESTIONS BY MR. TISI: Q. How large? How large would a
2 3 4 5	depends. It depends on the how the study is set up. It depends on what it depends on how long someone is followed. It depends on the study	2 3 4 5	QUESTIONS BY MR. TISI: Q. How large? How large would a study have to be? How many patients would have to
2 3 4 5 6	depends. It depends on the how the study is set up. It depends on what it depends on how long someone is followed. It depends on the study population being looked at. It depends on what potential bias was tried to it depends on the	2 3 4 5 6	QUESTIONS BY MR. TISI: Q. How large? How large would a study have to be? How many patients would have to be enrolled in a cohort study in order to get
2 3 4 5 6 7	depends. It depends on the how the study is set up. It depends on what it depends on how long someone is followed. It depends on the study population being looked at. It depends on what potential bias was tried to it depends on the investigators planning to try to limit	2 3 4 5 6 7	QUESTIONS BY MR. TISI: Q. How large? How large would a study have to be? How many patients would have to be enrolled in a cohort study in order to get good information about whether or not talc is associated with ovarian cancer? MR. LOCKE: Objection.
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65 (Pages 254 to 257)

	Page 258		Page 260
1	have to be?	1	QUESTIONS BY MR. TISI:
2	A. It depends. It depends on	2	Q. I'm not saying anything.
3	the it depends on the population. It	3	What page are you looking at,
4	depends on what the incidence of disease in	4	Doctor?
5	that population is.	5	A. Well, this might not be 38.
6	Q. And how long how long do you	6	So 38, page 38, paragraph 1, where it says,
7	think it would have to be for a cohort study	7	"She relies on commentary by Narod, who
8	to detect ovarian cancer in women?	8	states that the lack of significant overall
9	MS. MILLER: Objection.	9	association between ever talc use and ovarian
10	THE WITNESS: Well, then I'm	10	cancer in the cohort studies may be due to
11	going to have to say it depends.	11	the fact that despite the large size of the
12	Because in all women, that will	12	cohorts, the studies were not adequately
13	you'd need a very different number	13	powered to detect a relative risk of
14	than in looking at, say, women who are	14	approximately 1.2."
15	55 to 65, because the incidence of	15	Q. Right.
16	disease is very different among	16	A. "But this commentary rests on
17	different age populations.	17	sample size calculations with certain
18	QUESTIONS BY MR. TISI:	18	assumptions regarding the risk of ovarian
19	Q. Okay. So in women 55 to 65,	19	cancer, including the same incidence rate
20	did you independently assess how large a	20	issue that undermines Dr. McTiernan's
21	study would have to be?	21	critique. When the actual incidence rate of
22	MS. MILLER: Objection.	22	ovarian cancer in the cohort studies is taken
23	THE WITNESS: I looked at power	23	into account, it decreases the study sample
24	and sample size calculation under	24	size needed to the sample size reported in
25	various assumptions, and those	25	the relevant cohort studies."
	Page 259		Page 261
			1496 201
1	assumptions utilized the incidence of	1	Q. I understood. I read that.
1 2	assumptions utilized the incidence of disease and the time to follow someone	1 2	
			Q. I understood. I read that.
2	disease and the time to follow someone with varying times and varying incidence of disease.	2	Q. I understood. I read that. Where is your calculation for that? Did you it says when the
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	Page 262		Page 264
1	MS. MILLER: Well, we can sit	1	comparing participants exposed to talc to
2	and he can look for it, or I can tell	2	participants not exposed to talc, I
3	you where it is.	3	calculated that the incidence of ovarian
4	MR. TISI: It's funny how that	4	cancer in the overall number of study
5	happens. When I ask him about a	5	participants was sufficient to detect the
6	specific sentence, you want him to	6	true risk of ovarian cancer of 1.25 with a
7	read the whole report.	7	power of 99, 99 percent."
8	MS. MILLER: No, that's not	8	Q. So what would the number have
9	no, that's exactly the opposite of	9	to be in order to be what was your number?
10	what I was saying. I said if you want	10	That's what I wanted to know.
11	him to read the whole report, you can.	11	A. I would have to look at my
12	I also know where it is.	12	computer again. I just know it's sufficient.
13	MR. TISI: No, that's it	13	Q. Okay. But you didn't put in
14	depends on the question.	14	your report what the number would have to be
15	MS. SHARKO: Well, being nice	15	to so I can't ask you that question, and
16	doesn't work, unfortunately.	16	you don't know it here right now, do you?
17	MS. MILLER: Yeah, I'm trying	17	MR. LOCKE: Objection.
18	to be nice. That's the irony.	18	THE WITNESS: The number is
19	MR. TISI: You don't fine.	19	over the number of participants
20	MS. MILLER: Do you want to	20	included in those studies.
21	finish that sentence?	21	QUESTIONS BY MR. TISI:
22	MR. TISI: Yes.	22	Q. Okay.
23	MS. MILLER: Go ahead.	23	A. And that means that there's
24	MR. TISI: Your conduct during	24	only a 1 percent chance of being incorrect
25	the course of these depositions has	25	Q. Okay.
	Page 263		D 065
	rage 203		Page 265
1	been anything but nice.	1	A if, in fact, there is no
2	been anything but nice. MR. LOCKE: Objection.	1 2	A if, in fact, there is no difference in folks who haven't been
	been anything but nice. MR. LOCKE: Objection. MR. TISI: If you really want		A if, in fact, there is no difference in folks who haven't been exposed or unexposed to talcum powder.
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67 (Pages 262 to 265)

	Page 266		Page 268
1	Chapter 14?	1	is?
2	MR. TISI: Yeah.	2	A. No.
3	QUESTIONS BY MR. TISI:	3	Q. You don't know who he is?
4	Q. Can you go to page 256? You	4	A. I have no idea.
5	use it as an example 255, excuse me. Oh,	5	Q. Okay. Do you know he's written
6	I'm sorry. 257, please.	6	a textbook on epidemiology?
7	He uses as an exam and feel	7	A. I don't know his textbook, no.
8	free to look at if you wish. He uses an	8	(Merlo Exhibit 27 marked for
9	example, the process for using evidence in	9	identification.)
10	developing recommendations, effectiveness of	10	QUESTIONS BY MR. TISI:
11	prenatal interventions. He's giving a	11	Q. Okay. So I'm going to show you
12	causation approach here.	12	and ask whether you agree with it. It's a
13	The top here is categorizing	13	textbook on case-control studies.
14	the evidence by quality and source, and	14	Chapter 8. Did you read by
15	stage 2 is using the guidelines of evidence	15	the way, did you read Dr. Ballman's
16	of causal relationship, and those would be	16	testimony?
17	the Bradford Hill criteria.	17	A. I did.
18	Do you see that?	18	Q. You did.
19	A. I see this table and I see a	19	So you saw a discussion of
20	something that says, stage 1, categorizing	20	Dr. Rothman, right?
21	the evidence by the quality of its source.	21	A. Yes, but I don't know who
22	I see stage 2, guidelines with	22	Dr. Rothman is.
23	some what Dr. Gordis calls criteria, some	23	Q. Okay. Spent a lot of time
24	of which are some Bradford Hill	23 24	talking about Dr. Rothman.
25	considerations.	25	Let me ask you this
1			MG MW LED W
2	Q. Okay. Now, let's look at the quality of evidence, because that's what	1 2	MS. MILLER: I'm sorry, Mr. Tisi, can we have copies as well?
	Q. Okay. Now, let's look at the quality of evidence, because that's what we're talking about here, right?	3	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	quality of evidence, because that's what we're talking about here, right? Number 1 is trials, and we talked about those before. Those would be kind of the human experimental trials, the placebo-control kind of trials, right? A. Usually trials are either randomized, double-blinded, placebo-control trials, or randomized, not blinded, or nonrandomized but clinical trials where an intervention is done. Q. Okay. And the second category he has here is cohort or case-control studies. Do you see that? A. I do see that line that says "cohort or case-control studies." Q. He doesn't say cohort and then case-control studies, does he? A. He doesn't. Q. Okay. A. They're both observational	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Mr. Tisi, can we have copies as well? MR. Tisi: Oh, I'm sorry. That was an error. Here you go. MS. MILLER: Thank you so much. MR. Tisi: You're so welcome. QUESTIONS BY MR. Tisi: Q. Second sentence in the textbook second paragraph. It's on this is on this chapter is entitled "Case-Control Studies," right? A. This chapter, Chapter 8, called "Case-Control Studies." Q. The second paragraph begins with the sentence, "Conventional wisdom about case-control studies is that they do not yield estimates of effect that are valid measures obtained from cohort studies. This thinking may reflect common misunderstandings in the conceptualizing of case-control studies, which will be clarified later." Do you see that? A. I do see that.

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Christian Merlo, M.D., MPH

	Page 270		Page 272
1	THE WITNESS: This is a very,	1	that, Doctor? I mean, honestly, I'm pulling
2	very, very vague statement.	2	up book chapters, published articles. You
3	QUESTIONS BY MR. TISI:	3	pulled up a white paper from Australia.
4	Q. Okay.	4	How do I check and ask you,
5	A. And I'm going to have to say it	5	other than your say-so, as to what the
6	depends. It depends on who's thinking about	6	general acceptance is in the in the
7	it. It depends on the quality of the	7	epidemiologic community, other than you just
8	case-control study. It depends on the	8	saying it?
9	quality of the cohort study. It depends on	9	MS. MILLER: Objection.
10	so many things that I can't even agree nor	10	MR. LOCKE: Objection.
11	disagree with it.	11	THE WITNESS: You can take a
12	(Merlo Exhibit 28 marked for	12	class in epidemiology.
13	identification.)	13	QUESTIONS BY MR. TISI:
14	QUESTIONS BY MR. TISI:	14	Q. I don't think I'm going to take
15	Q. Okay. Let me show you another	15	your class.
16	article by Dr. Rothman, Exhibit Number 28.	16	A. Well, I didn't say my class.
17	This is a review article	17	You can take any class.
18	entitled "Six Persistent Misconceptions."	18	Q. I'm reading the textbooks, and
19	Do you see that?	19	they don't say what you say.
20	A. I do.	20	MS. MILLER: Objection.
21	Q. Have you seen this before?	21	MR. LOCKE: Objection.
22	A. Yes.	22	(Merlo Exhibit 29 marked for
23	Q. Okay. Can you read	23	identification.)
24	misconception number 1?	24	QUESTIONS BY MR. TISI:
25	MS. MILLER: Objection.	25	Q. I'm going to show you another
	D 0F1		
	Page 271		Page 273
1	THE WITNESS: Misconception 1,	1	Page 273 one. This is Dr. Rothman who actually was,
1 2		1 2	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc
	THE WITNESS: Misconception 1,		one. This is Dr. Rothman who actually was,
2 3 4	THE WITNESS: Misconception 1, "There is a hierarchy of study	2	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc
2 3	THE WITNESS: Misconception 1, "There is a hierarchy of study designs. Randomized trials provide	2	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc question back in 2000.
2 3 4	THE WITNESS: Misconception 1, "There is a hierarchy of study designs. Randomized trials provide the greatest validity, followed by cohort studies, with case-control studies being least reliable."	2 3 4	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc question back in 2000. Almost 20 years ago, right?
2 3 4 5	THE WITNESS: Misconception 1, "There is a hierarchy of study designs. Randomized trials provide the greatest validity, followed by cohort studies, with case-control	2 3 4 5	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc question back in 2000. Almost 20 years ago, right? I'm going to show you that
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	THE WITNESS: Misconception 1, "There is a hierarchy of study designs. Randomized trials provide the greatest validity, followed by cohort studies, with case-control studies being least reliable." QUESTIONS BY MR. TISI: Q. You are studying for your support of this general this general proposition, you're citing that Australian that Australian white paper, right? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. You didn't study any published literature. You didn't cite textbooks, published literature, nothing? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I'm citing I'm citing that article, but I'm also referencing my experience in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc question back in 2000. Almost 20 years ago, right? I'm going to show you that Exhibit Number 29. MS. SHARKO: Can we please just have questions instead of accusatory speeches? MR. TISI: I thought there was only one objector here. QUESTIONS BY MR. TISI: Q. Doctor, I show you Exhibit Number 28, which is entitled "Interpretation of Epidemiologic Studies on Talc and Ovarian Cancer." Have you seen this before? A. Yes. Q. Okay. Have you been shown or have you seen the section on exposure misclassification on page 3?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: Misconception 1, "There is a hierarchy of study designs. Randomized trials provide the greatest validity, followed by cohort studies, with case-control studies being least reliable." QUESTIONS BY MR. TISI: Q. You are studying for your support of this general this general proposition, you're citing that Australian that Australian white paper, right? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. You didn't study any published literature. You didn't cite textbooks, published literature, nothing? MR. LOCKE: Objection. MS. MILLER: Objection. THE WITNESS: I'm citing I'm citing that article, but I'm also referencing my experience in epidemiology as well as the general	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	one. This is Dr. Rothman who actually was, unlike you, consulted to look at the talc question back in 2000. Almost 20 years ago, right? I'm going to show you that Exhibit Number 29. MS. SHARKO: Can we please just have questions instead of accusatory speeches? MR. TISI: I thought there was only one objector here. QUESTIONS BY MR. TISI: Q. Doctor, I show you Exhibit Number 28, which is entitled "Interpretation of Epidemiologic Studies on Talc and Ovarian Cancer." Have you seen this before? A. Yes. Q. Okay. Have you been shown or have you seen the section on exposure misclassification on page 3? A. I see the I see the
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	Page 274		Page 276
1	context, this is November of 2000, this date	1	design, talked about the methodology used in
2	of this report, correct?	2	the studies and the conclusions reached in
3	A. That's correct.	3	the study, right? They went through every
4	Q. Okay. This is some this is	4	one of them.
5	like halfway, if that, in the timeline of all	5	MS. MILLER: Objection.
6	the studies that have been conducted in this	6	MR. LOCKE: Objection.
7	case from 1982 to 2016?	7	MR. TISI: True?
8	MR. LOCKE: Objection.	8	MS. MILLER: Objection.
9	MS. MILLER: Objection.	9	THE WITNESS: You'd have to be
10	THE WITNESS: It's November	10	more specific
11	of 2000	11	QUESTIONS BY MR. TISI:
12	QUESTIONS BY MR. TISI:	12	Q. Well, you reviewed them and you
13	Q. Right.	13	made the criticisms.
14	A and that's when it was	14	So can you tell me one expert
15	published.	15	who both plaintiffs' experts who did not
16	Q. So what he's saying here, and	16	look at the study design for the
17	I'm going to read it for the record, not all	17	case-controls and cohorts, who did not look
18	the study "nearly all the studies were	18	at the methodology and who did not look at
19	case-control studies. It is commonly	19	the results?
20	believed that the validity of case-control	20	MS. MILLER: Objection.
21	studies is worse than cohort studies, but	21	MR. LOCKE: Objection.
22	this view is mistaken. The validity of the	22	THE WITNESS: You'd have to be
23	study depends on the specifics of the study	23	more specific. If we look at the
24	design, the nature of the data and the nature	24	QUESTIONS BY MR. TISI:
25	of the hypothesis that the study addresses."	25	Q. No, you'll have to be more
	2000		
	Page 2/5		Page 277
1	Page 275	1	Page 277
1	Do you see that?	1 2	specific because you made some bald
1 2 3	Do you see that? A. I do see that.	2	specific because you made some bald accusations here, and I really need you to be
1 2 3	Do you see that? A. I do see that. Q. Do you agree with it or not?	2 3	specific because you made some bald accusations here, and I really need you to be specific. I need you to tell me: Did
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70 (Pages 274 to 277)

	Page 278		Page 280
1	Q. Okay. All four studies	1	2:00 p.m. We're going off the record.
2	MS. MILLER: Do you want a	2	(Off the record at 2:00 p.m.)
3	break?	3	VIDEOGRAPHER: Okay. The time
4	MR. TISI: If he can tell me	4	is 2:11 p.m., and we're back on the
5	if he wants a break.	5	record.
6	THE WITNESS: I'm okay.	6	QUESTIONS BY MR. TISI:
7	MR. TISI: He just said he's	7	Q. Was the talc/ovarian cancer
8	okay.	8	hypothesis prespecified in any of the cohort
9	MS. MILLER: Do we have a new	9	studies?
10	rule in depositions where lawyers	10	MS. MILLER: Objection.
11	can't ask for a break?	11	THE WITNESS: I don't know.
12	MR. TISI: If you want to ask	12	The cohort studies involving the
13	for a break, that's fine. If he's	13	Nurses' Health Study, for instance,
14	you asked him whether he wants a	14	added a questionnaire in 1982.
15	break.	15	And so if one added a
16	MS. MILLER: This is just	16	questionnaire in 1982 asking about
17	getting surreal, Susan.	17	talc, at that point in the cohort
18	MR. TISI: It is totally	18	study there may have been a hypothesis
19	getting surreal. You asked him	19	about that. That's why they added
20	whether he wants a break.	20	that that's why one might think
21	Can you read that back? Can	21	that they added a questionnaire.
22	you read that back?	22	QUESTIONS BY MR. TISI:
23	MS. SHARKO: I thought are	23	Q. You don't know that because the
24	we really going to have this kind of	24	study doesn't say that, does it?
25	meltdown over a break, Mr. Tisi?	25	MS. MILLER: Objection.
	Page 279		Page 281
1	MR. TISI: I am totally okay	1	THE WITNESS: I'd have to
2	:41 1 4 1 : 1 1 : 6 1 117		
2	with her taking a break if she says "I	2	review the study back to look at
3	with her taking a break if she says "I would like to take a break." But	2 3	review the study back to look at it. I don't have it memorized.
			it. I don't have it memorized. QUESTIONS BY MR. TISI:
3	would like to take a break." But	3	it. I don't have it memorized. QUESTIONS BY MR. TISI: Q. How many times in each of these
3 4	would like to take a break." But don't ask the witness whether he wants	3 4	it. I don't have it memorized. QUESTIONS BY MR. TISI:
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Christian Merlo, M.D., MPH

	Page 282		Page 284
1	Dr. Rothman and his colleagues talk about	1	think you said it's the one that biases
2	exposure misclassification in Exhibit	2	toward the null is that a problem with
3	Number 29.	3	cohort studies?
4	Do you know what that concept	4	A. Nondifferential
5	is?	5	Q. Nondifferential?
6	A. And what page is that on again?	6	A misclassification
7	Q. I'm just asking you what it is.	7	Q. Yes.
8	I mean, it's in Exhibit 29 he uses the term.	8	A biases toward the null.
9	Do you know what it is?	9	Q. Right.
10	A. Well, you're referring to this.	10	Is that a recognized concern
11	I haven't read this paragraph yet, but I do	11	with cohort studies?
12	know what exposure misclassification is.	12	A. So it depends. It depends if
13	Q. Then that's what I want. What	13	there's some reason to believe that those who
14	is exposure misclassification?	14	are exposed actually are unexposed, and those
15	A. Misclassification involving an	15	that are unexposed are being labeled as
16	exposure is when either a study subject is	16	exposed.
17	classified as being exposed when they're not	17	Q. And in the cohort studies on
18	exposed or being classified as not exposed	18	talc, would it isn't it generally true
19	when they're exposed.	19	across the cohort studies that women were
20	Q. And exposure misclassification,	20	asked about that talc exposure only once?
21	generally speaking, will bias the results	21	A. I would have to review the
22	towards the null, correct?	22	articles again. I don't know that I
23	A. Not necessarily.	23	specifically have that memorized.
24	Q. I didn't say necessarily. I	24	Q. Okay. If that were true, would
25	said generally speaking.	25	there be a danger of exposure
	Page 283		Page 285
1	Wouldn't that be the case?	1	misclassification?
2	A. No, absolutely not.	2	A. Again, I think it depends. It
3	Q. Okay.	3	depends on it depends on the
4	A. And I'll tell you why.	4	questionnaire. It depends on the time
5	Q. Please.		
6	Q. Trease.	5	between questionnaire and measurement of
Ю	A. Because there are two different	5 6	between questionnaire and measurement of outcome. It depends on whether or not
6 7			
	A. Because there are two different	6	outcome. It depends on whether or not
7	A. Because there are two different types of misclassification. One is	6 7	outcome. It depends on whether or not there's any aspect of asking about potential
7 8	A. Because there are two different types of misclassification. One is traditionally referred to as differential	6 7 8	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot
7 8 9	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally	6 7 8 9 10 11	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things.
7 8 9 10	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential	6 7 8 9 10	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft
7 8 9 10 11	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification.	6 7 8 9 10 11	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis?
7 8 9 10 11 12	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential	6 7 8 9 10 11 12	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher.
7 8 9 10 11 12 13	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results	6 7 8 9 10 11 12 13	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not
7 8 9 10 11 12 13	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification,	6 7 8 9 10 11 12 13 14	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as
7 8 9 10 11 12 13 14 15	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can	6 7 8 9 10 11 12 13 14 15	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing
7 8 9 10 11 12 13 14 15	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can actually bias the result away from the	6 7 8 9 10 11 12 13 14 15	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing with tale?
7 8 9 10 11 12 13 14 15 16 17	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can actually bias the result away from the null	6 7 8 9 10 11 12 13 14 15 16	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing with talc? A. I would have to look at the
7 8 9 10 11 12 13 14 15 16 17	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can actually bias the result away from the null Q. Okay.	6 7 8 9 10 11 12 13 14 15 16 17	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing with talc? A. I would have to look at the draft and see what you're referring to.
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7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can actually bias the result away from the null Q. Okay. A and give you an overinflated estimate of risk. Q. Is recall bias an aspect of	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing with tale? A. I would have to look at the draft and see what you're referring to. Q. No, I'm not asking about the draft. I'm asking in the cohort studies
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can actually bias the result away from the null Q. Okay. A and give you an overinflated estimate of risk.	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing with tale? A. I would have to look at the draft and see what you're referring to. Q. No, I'm not asking about the draft. I'm asking in the cohort studies themselves.
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Because there are two different types of misclassification. One is traditionally referred to as differential misclassification, and one is traditionally referred to as nondifferential misclassification. Nondifferential misclassification can bias the study results to the null. Differential misclassification, such as that occurs with recall bias, can actually bias the result away from the null Q. Okay. A and give you an overinflated estimate of risk. Q. Is recall bias an aspect of exposure misclassification; do you think?	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	outcome. It depends on whether or not there's any aspect of asking about potential exposure in the past, and it depends a lot it depends on a lot of things. Q. Did you review the Taher draft article meta-analysis? A. I did review Taher. Q. Do you know whether or not exposure misclassification was identified as a shortcoming in the cohort studies dealing with tale? A. I would have to look at the draft and see what you're referring to. Q. No, I'm not asking about the draft. I'm asking in the cohort studies themselves. A. I'm sorry?

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	Page 286		Page 288
1	MS. MILLER: Objection.	1	MS. MILLER: Objection.
2	THE WITNESS: You'd have to be	2	MR. LOCKE: Objection.
3	more specific and see which what	3	THE WITNESS: I'm sorry?
4	study are we talking about?	4	QUESTIONS BY MR. TISI:
5	QUESTIONS BY MR. TISI:	5	Q. When's the last time you read
6	Q. Did they identify a concern	6	your report before you came in here today?
7	about a limitation being that there might be	7	A. I read it last night.
8	recall excuse me, might be exposure	8	Q. Okay.
9	misclassification, nondifferential	9	A. But again, there's a lot of
10	misclassification?	10	information here, and I don't have things
11	MS. MILLER: Objection.	11	memorized.
12	THE WITNESS: You'd have to	12	Q. I agree. I agree.
13	point me to the specific article that	13	So on page 24 and 25 you
14	you're referring to.	14	discuss and 26 you discuss Gates,
15	QUESTIONS BY MR. TISI:	15	Houghton, Gonzales and Gertig. I don't see
16	Q. You don't know whether or not	16	any discussion about the concern of
17	the authors in any of those studies discussed	17	nondifferential misclassification bias.
18	it?	18	A. Okay.
19	A. There are so many articles	19	Q. Do you agree?
20	here, so many reports, a lot of paper, I	20	A. Do I agree with what?
21	don't have things memorized.	21	Q. Did you discuss nondifferential
22	Q. You	22	misclassification bias in your discussion of
23	A. If there's certain something	23	the four cohort studies?
24	that you want to ask me about the cohort	24	A. I discussed the potential for
25	studies	25	nondifferential misclassification in
	Page 287		Page 289
1	Q. You put them in your report.	1	observational studies in my report.
			observational statics in my report.
2	Did you address did you	2	Q. Did you discuss them in the
2 3		2 3	
	Did you address did you		Q. Did you discuss them in the
3	Did you address did you address in your report, in your discussion of	3	Q. Did you discuss them in the context of the talc studies?
3 4	Did you address did you address in your report, in your discussion of the cohort studies, the concern about a	3 4	Q. Did you discuss them in the context of the talc studies?A. I didn't.
3 4 5	Did you address did you address in your report, in your discussion of the cohort studies, the concern about a nondifferential misclassification of	3 4 5	Q. Did you discuss them in the context of the talc studies?A. I didn't.Q. You know that that's a concern
3 4 5 6	Did you address did you address in your report, in your discussion of the cohort studies, the concern about a nondifferential misclassification of exposure?	3 4 5 6	 Q. Did you discuss them in the context of the talc studies? A. I didn't. Q. You know that that's a concern that the plaintiffs' experts had when they looked at the case excuse me, the cohort studies, that women were asked only one time
3 4 5 6 7 8	Did you address did you address in your report, in your discussion of the cohort studies, the concern about a nondifferential misclassification of exposure? A. Can you ask that again? Q. Yes. In your report on your	3 4 5 6 7 8	Q. Did you discuss them in the context of the talc studies? A. I didn't. Q. You know that that's a concern that the plaintiffs' experts had when they looked at the case excuse me, the cohort studies, that women were asked only one time whether they were exposed to talc and that
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Christian Merlo, M.D., MPH

	Page 290		Page 292
1	QUESTIONS BY MR. TISI:	1	QUESTIONS BY MR. TISI:
2	Q. Okay. But you don't address	2	Q. It is a general statement, and
3	that in your report?	3	I suspect that I suspect that the judge
4	MS. MILLER: Objection.	4	might look at some of the words used in here
5	THE WITNESS: I'm sorry?	5	and agree with me here.
6		6	
	QUESTIONS BY MR. TISI:		Pretty strong terms to say that
7	Q. You don't address that in your	7	somebody was using a conducting an
8	report with respect to the individual case	8	analysis for the purpose of litigation and
9	the individual cohort studies, do you?	9	all the things that you've said. So but
10	MR. LOCKE: Objection.	10	let's put that aside.
11	THE WITNESS: Nondifferential	11	MS. MILLER: Objection.
12	misclassification is a potential	12	QUESTIONS BY MR. TISI:
13	limitation of any observational study.	13	Q. Let's put it aside. Put it
14	QUESTIONS BY MR. TISI:	14	aside.
15	 Q. Okay. I asked you whether you 	15	MS. MILLER: If that's a
16	discussed it in the context of the cohort	16	speech, I'm objecting to it. It
17	studies.	17	mischaracterizes
18	MS. MILLER: Objection.	18	MR. TISI: Put it aside.
19	QUESTIONS BY MR. TISI:	19	MS. MILLER: It
20	Q. The four cohort studies on	20	mischaracterizes his report. If
21	talc, did you discuss did you even discuss	21	you're going to say it, then you're
22	that bias?	22	going to have to let me object to it.
23	I mean, you're sitting here	23	If you didn't want to say it
24	telling our telling under oath telling	24	MR. TISI: Put it aside.
25	our saying that our experts were, you	25	MS. MILLER: then you
	our out ing man our original word, you		11201 11122221 111411 9011
	Page 291		Page 293
			1490 275
1	know, litigation-driven opinions, that they	1	shouldn't have said it.
1 2	know, litigation-driven opinions, that they did all kinds of did all kinds of things	1 2	
	did all kinds of did all kinds of things	1	shouldn't have said it.
2		2	shouldn't have said it. MR. TISI: Put it aside.
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Christian Merlo, M.D., MPH

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14 Q. Okay. 15 A. So if you'd like to go through 16 them, I'm happy to sit here and we can go 17 through each of them. 18 Q. You know that's impossible, 19 don't you? In seven hours, you know that's 20 impossible, which is exactly why you're 21 saying that. 22 MR. LOCKE: Objection. 23 QUESTIONS BY MR. TISI: 24 Q. THE WITNESS: Can you ask that again? 25 QUESTIONS BY MR. TISI: 26 QUESTIONS BY MR. TISI: 27 THE WITNESS: Can you ask that again? 28 QUESTIONS BY MR. TISI: 29 QUESTIONS BY MR. TISI: 20 UESTIONS BY MR. TISI: 21 THE WITNESS: Can you ask that again? 29 QUESTIONS BY MR. TISI: 20 QUESTIONS BY MR. TISI: 21 Look at the particular designs of the studies, did you do that with respect to each one of these studies? 29 Q. Let me ask you this, Doctor: 20 A. I did.	12	A. And I don't have them	12	well-designed and one isn't, right?
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QUESTIONS BY MR. TISI: 23 one of these studies? 24 Q. Let me ask you this, Doctor: 24 A. I did.		• •	21	
Q. Let me ask you this, Doctor: 24 A. I did.			I	
		-	1	
You are going you are asking you are 25 Q. Okay. So with regard to the			1	
	25	You are going you are asking you are	25	Q. Okay. So with regard to the

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	Page 298		Page 300
1	cohort studies, okay, did you look at	1	A. The analysis was done during
2	individually whether there was a particular	2	the follow-up period.
3	concern with these studies on	3	Q. Which was when?
4	misclassification bias?	4	How many decades after they
5	A. There's always a concern for	5	were initially asked?
6	misclassification.	6	A. Well, it depends on when the
7	Q. Understood. Theoretically	7	patient when the study subject was
8	that's true with every one of these cohort	8	enrolled.
9	studies.	9	I can say that the Gertig
10	But you know each of these	10	study, it was assessed the exposure
11	studies only asked these women in decades,	11	questionnaire was added in 1982, and they
12	most cases decades I think the Nurses'	12	were followed for 14 years on average.
13	Health Study was six and a half years but	13	Q. Right.
14	one only once about talc usage at the	14	And in 14 years, isn't it
15	beginning at or near the beginning of the	15	conceivable that somebody could have started
16	study, right?	16	using tale, or somebody that who said they
17	MR. LOCKE: Objection.	17	were using tale stopped using tale?
18	THE WITNESS: We'd have to	18	A. That's certainly possible, but
19	break that's a very generalized	19	for four studies to show the same
20		20	nondifferential misclassification, that would
21	question. QUESTIONS BY MR. TISI:	21	be very, very unlikely.
22	•	22	
23	Q. Where is it in your report?	23	Q. Right. And four studies which asked
23 24	Where is it in your report?	24	
2 4 25	A. I'm sorry.	25	asked the question once at the beginning of
4 5	MS. MILLER: Objection.	25	the study, right?
	Page 299		Page 301
1	QUESTIONS BY MR. TISI:	1	MS. MILLER: Objection.
2	Q. Where is your discussion in the	2	QUESTIONS BY MR. TISI:
3	report about when they were asked about their	3	Q. They all had the same flaw.
4	talc usage in the cohort studies?	4	You had four flawed studies, didn't you?
5	A. Well, we can go through my	5	MS. MILLER: Can we stick with
6	report if you'd like to.	6	one question at a time?
7	Q. You just did that, Doctor, and	7	QUESTIONS BY MR. TISI:
8	you said it wasn't here.	8	Q. You had four flawed studies
9	On page 24 and 25, you have a	9	with respect to misclassification bias. They
10	discussion, the Gertig, Gates, Houghton and	10	all asked one time at the beginning of the
11	Gonzalez studies. There is no discussion in	11	study; true or not true?
12	here about when they were asked about the	12	MR. LOCKE: Objection.
13	talc and how often they were asked.	13	MS. MILLER: Objection.
14	MR. LOCKE: Objection.	14	THE WITNESS: The Gates and
15	THE WITNESS: I would have to	15	Gertig study did ask women questions
16	look back through my report because I	16	about tale in 1982. That was the only
17	do know that in the Gertig study and	17	time that they were asked about tale
18	the Gates study, the questionnaire	18	usage in those two studies.
19	that asked women about talc exposure	19	QUESTIONS BY MR. TISI:
20	was in 1982.	20	Q. What about Houghton?
21	QUESTIONS BY MR. TISI:	21	A. In Gertig sorry, in let
22	Q. Correct.	22	me just do Gonzalez first.
23	A. And so that is when they were	23	Gonzalez mst. Gonzalez were asked if they
23 24	asked.	24	used talc within 12 months prior to
<u> 4</u>	asku.	4 ⁴	used tale within 12 months prior to
25	Q. And when was the analysis done?	25	enrollment into the study, and so that's

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	Page 302		Page 304
1	_	1	
1	going to depend on when they enrolled in the	1	study, do you?
2	study in between 2003 to 2009. And they were	2	MS. MILLER: Objection. Asked
3	followed for six years afterwards.	3	and answered like ten times. THE WITNESS: I addressed it in
4	Q. And they were never just	4	
5	while we're talking about that, were they	5	the context of my report, and inherent
6	ever asked after enrollment, again, whether	6	in any observational study is the
7	or not they switched to using talc, or people	7	potential for misclassification.
8	who said they were using talc stopped?	8	QUESTIONS BY MR. TISI:
9	MS. MILLER: Objection.	9	Q. You didn't analyze in your
10	THE WITNESS: They were not	10	report whether the cohort studies in talc
11	asked again.	11	were flawed or limited in reliability by
12	QUESTIONS BY MR. TISI:	12	misclassification studies, did you?
13	Q. Okay. Houghton?	13	MS. MILLER: Objection.
14	A. In Houghton, participants	14	THE WITNESS: Can you ask that
15	were completed an annual questionnaire at	15	again?
16	enrollment. And I don't know if I have the	16	QUESTIONS BY MR. TISI:
17	specific year that the questionnaire was	17	Q. Yes.
18	asked, because study subject enrolled from	18	Other than making the general
19	1993 to 1998 and then were followed	19	observation, did you analyze in your report
20	Q. How many years?	20	whether the cohort talc studies were flawed
21	A. An average of 12 years.	21	or limited in reliability by
22	Q. Okay. Were they ever asked in	22	misclassification bias?
23	that 12 years whether some who had been on	23	A. So other than saying what I
24	talc went off, or some who were off talc went	24	said before, that inherent in all
25	on in those 12 years?	25	observational studies, which I talked about
	Page 303		Page 305
1	A. They weren't.	1	in my report, misclassification, other than
2	Q. Okay. So those were	2	that that's what I talked about in my
3	limitations on the cohort studies, correct?	3	report.
4	A. They're potential limitations	4	Q. Other than that, the answer is
5	of a cohort study.	5	no, you didn't discuss them in the context of
6	Q. And you don't address those in		no, you didn't discuss them in the context of
	Q. I may you don't address those in	6	the individual studies?
7	your report, do you?	6 7	• •
7 8			the individual studies?
	your report, do you?	7	the individual studies? MS. MILLER: Objection.
8	your report, do you? A. Again, it's inherent in a	7 8	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection.
8 9	your report, do you? A. Again, it's inherent in a cohort study that there are potential	7 8 9	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: But I discussed
8 9 10	your report, do you? A. Again, it's inherent in a cohort study that there are potential there's potential exposure misclassification. Q. I understand.	7 8 9 10	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: But I discussed it within my report, which is within
8 9 10 11	your report, do you? A. Again, it's inherent in a cohort study that there are potential there's potential exposure misclassification. Q. I understand. Did you address those well,	7 8 9 10 11	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: But I discussed it within my report, which is within the context of the individual studies.
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8 9 10 11 12 13 14 15 16 17 18 19 20	your report, do you? A. Again, it's inherent in a cohort study that there are potential there's potential exposure misclassification. Q. I understand. Did you address those well, in cohort studies they can be asked every year about their exposures, right? Some do that. A. And there's still potential for misclassification. Q. Understood. But these particular studies were particularly vulnerable to that bias	7 8 9 10 11 12 13 14 15 16 17 18	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: But I discussed it within my report, which is within the context of the individual studies. QUESTIONS BY MR. TISI: Q. Let's talk about strength of the association. We talked about methodology generally. Let's talk about strength. On page 32 of your report, you say you have a section called "Lack of Strength of Associations." Page 32, bottom, Section D. A. Lack of Strength of
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8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	your report, do you? A. Again, it's inherent in a cohort study that there are potential there's potential exposure misclassification. Q. I understand. Did you address those well, in cohort studies they can be asked every year about their exposures, right? Some do that. A. And there's still potential for misclassification. Q. Understood. But these particular studies were particularly vulnerable to that bias because they asked only once at the beginning of the studies, true?	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: But I discussed it within my report, which is within the context of the individual studies. QUESTIONS BY MR. TISI: Q. Let's talk about strength of the association. We talked about methodology generally. Let's talk about strength. On page 32 of your report, you say you have a section called "Lack of Strength of Associations." Page 32, bottom, Section D. A. Lack of Strength of Association. Q. Do you see that?
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8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	your report, do you? A. Again, it's inherent in a cohort study that there are potential there's potential exposure misclassification. Q. I understand. Did you address those well, in cohort studies they can be asked every year about their exposures, right? Some do that. A. And there's still potential for misclassification. Q. Understood. But these particular studies were particularly vulnerable to that bias because they asked only once at the beginning of the studies, true?	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	the individual studies? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: But I discussed it within my report, which is within the context of the individual studies. QUESTIONS BY MR. TISI: Q. Let's talk about strength of the association. We talked about methodology generally. Let's talk about strength. On page 32 of your report, you say you have a section called "Lack of Strength of Associations." Page 32, bottom, Section D. A. Lack of Strength of Association. Q. Do you see that?

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	- 20 <i>c</i>		T 200
	Page 306		Page 308
1	greater the likelihood that the relationship	1	A. I wrote that in my report.
2	is causal."	2	Q. Okay. And you cite a 1982
3	A. I see that.	3	article by Widner.
4	Q. You use the term "weak" or	4	A. That's correct.
5	"relatively weak" association seen in the	5	Q. And on page 46, you state that
6	tale and ovarian cancer relationship,	6	"Risk ratios between 1.2 and 1.6 are by
7	correct? You call them weak.	7	definition weak associations."
8	A. Where are you?	8	That's your conclusion
9	Q. For example, the very the	9	sentence. First sentence, third paragraph
10	very last the second full paragraph, last	10	down.
11	three lines up you say, "Relatively weak	11	"This is by definition a weak
12	associations."	12	association."
13	A. I'm not seeing where you're	13	A. That's correct.
14	referring to.	14	Q. Okay. Where is that definition
15	Q. Right there.	15	written?
16	MS. MILLER: It's hard to see	16	MS. MILLER: Objection.
17	upside down.	17	THE WITNESS: Well, I would
18	MR. TISI: Well, I can't do it	18	have to go back and look at the
19	any other way unless you want me to	19	article that I referenced.
20	reach over and point at the witness.	20	QUESTIONS BY MR. TISI:
21	I said three sentences up from	21	Q. Is that the only is that the
22	the second paragraph.	22	only article that you can think of?
23	MS. MILLER: Three second up	23	A. It's the only article that
24	from the bottom of the second	24	comes to mind that I could find, but it's a
25	paragraph?	25	generally accepted generally accepted in
	200		200
	Page 307		Page 309
1	MR. TISI: Yeah.	1	the epidemiologic community that anything
2	MS. MILLER: Oh, okay. I see	2	less than 2 is a weak association.
3	it now. I misunderstood you.	3	Q. Anything less than 2 is weak?
		3	Q. Allything less than 2 is weak?
4	THE WITNESS: I see that.	4	A. So, again, it depends, because
4 5		1	A. So, again, it depends, because there are certain studies that may show, that
	THE WITNESS: I see that.	4 5 6	A. So, again, it depends, because
5	THE WITNESS: I see that. QUESTIONS BY MR. TISI: Q. And on page 42, you say, "It is generally accepted that risk ratios that	4 5	A. So, again, it depends, because there are certain studies that may show, that have been designed properly, that bias and confounding aren't a problem, that analysis
5 6	THE WITNESS: I see that. QUESTIONS BY MR. TISI: Q. And on page 42, you say, "It is	4 5 6	A. So, again, it depends, because there are certain studies that may show, that have been designed properly, that bias and confounding aren't a problem, that analysis is great and interpretation is fine where
5 6 7	THE WITNESS: I see that. QUESTIONS BY MR. TISI: Q. And on page 42, you say, "It is generally accepted that risk ratios that ratios of risk measures between 1.1 and 2.0 represent a weak association between exposure	4 5 6 7 8 9	A. So, again, it depends, because there are certain studies that may show, that have been designed properly, that bias and confounding aren't a problem, that analysis is great and interpretation is fine where that association, that relative risk, even
5 6 7 8	THE WITNESS: I see that. QUESTIONS BY MR. TISI: Q. And on page 42, you say, "It is generally accepted that risk ratios that ratios of risk measures between 1.1 and 2.0 represent a weak association between exposure and outcome."	4 5 6 7 8	A. So, again, it depends, because there are certain studies that may show, that have been designed properly, that bias and confounding aren't a problem, that analysis is great and interpretation is fine where that association, that relative risk, even though it's less than 2 considered weak, that
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78 (Pages 306 to 309)

	Page 310		Page 312
1	QUESTIONS BY MR. TISI:	1	magnitude of effect modest with observed
2	Q. I'm going to show you	2	relative risks of 1.2 to 1.8.
3	Exhibit Number 31, which is the National	3	Q. Do you think the National
4	Cancer Institute statements on ovarian	4	Cancer Institute doesn't understand the
5	cancer.	5	doesn't understand the concept of strength of
6	Have you seen this before?	6	association and this generally accepted
7	A. No.	7	principle that anything under 2.0 is weak?
8	MR. LOCKE: Objection.	8	MS. MILLER: Objection.
9	QUESTIONS BY MR. TISI:	9	MR. LOCKE: Objection.
10	Q. Okay. If you look at the	10	THE WITNESS: So again, I'm not
11	second page, it talks about factors within	11	here to give an opinion on the
12	"with adequate evidence of increased risk of	12	National Cancer Institute. I don't
13	ovarian, fallopian tube and primary	13	know who put this document together,
14	peritoneal cancers."	14	and I did say that it depends. It
15	Do you see that?	15	depends on the study.
16	A. I see that.	16	QUESTIONS BY MR. TISI:
17	Q. You see they talk about	17	Q. Okay.
18	endometriosis.	18	A. But in general, a relative risk
19	MS. MILLER: Can you point me	19	of or an odds ratio of less than 2 is a
20	to that?	20	weak association.
21	MR. TISI: Yeah. You see where	21	Q. What about obesity and height,
22	endometriosis is?	22	the next one? It says, based on fair
23	MS. MILLER: No, that's why I'm	23	evidence not even great evidence but fair
24	asking you to point	24	evidence obesity and height are associated
25	MR. TISI: It's on page 3 of	25	with a modest increased risk of ovarian
	Page 311		D 212
	1030 311		Page 313
1	18.	1	cancer, and they defined it as a 1.1.
1 2		1 2	cancer, and they defined it as a 1.1. Do you see that?
	18.	l	cancer, and they defined it as a 1.1.
2	18. MS. MILLER: Oh, sorry, I was	2	cancer, and they defined it as a 1.1. Do you see that?
2	18. MS. MILLER: Oh, sorry, I was on page 4. I thought you said	2 3	cancer, and they defined it as a 1.1. Do you see that? A. I see, based on fair evidence,
2 3 4	18. MS. MILLER: Oh, sorry, I was on page 4. I thought you said factors.	2 3 4	cancer, and they defined it as a 1.1. Do you see that? A. I see, based on fair evidence, increases in height and body mass indexes are
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	Page 214		Dago 216
	Page 314		Page 316
1	Q. So this is a laughable	1	But because of other factors,
2	document, huh?	2	maybe factors, considerations that Bradford
3	MR. LOCKE: Objection.	3	Hill has, such as consistency or dose
4	THE WITNESS: I'm not saying	4	response, do lead one to conclude that
5	I'm laughing at this, but I'm just	5	there's a causal association between exposure
6	telling you that if Dr. Gordis came	6	and outcome.
7	into the room and I tried to explain	7	And if we're talking about
8	to him that a relative risk of 1.1 is	8	environmental tobacco smoke and lung cancer,
9	modest, he'd laugh me out of the room.	9	studies are consistent, and there's a
10	QUESTIONS BY MR. TISI:	10	consistent dose response.
11	Q. Now he's an expert?	11	Q. They all show they all
12	A. I'm not saying he's an expert.	12	show they all show statistically
13	Q. Okay.	13	significant associations. Every cohort and
14	A. He was my teacher.	14	case-control study shows consistent
15	Q. Okay.	15	association in secondhand smoke; is that what
16	A. And I wouldn't do that in front	16	you're testifying to?
17	of him.	17	MS. MILLER: Objection.
18	(Merlo Exhibit 32 marked for	18	MR. LOCKE: Objection.
19	identification.)	19	THE WITNESS: I didn't say
20	QUESTIONS BY MR. TISI:	20	that.
21	Q. Okay. Let's look at Exhibit	21	QUESTIONS BY MR. TISI:
22	Number 32, which is another chapter out of	22	Q. Okay.
23	the textbook Modern Epidemiology by	23	A. I said that there's
24	Dr. Rothman, which I have marked as Exhibit	24	consistency. And there's consistency in the
25	Number 32. And on page 25 of 30, it talks	25	literature that secondhand smoke in
	Page 315		Page 317
1	about the strength criteria.	1	sufficient dose over sufficient time so a
2	He says and I want to ask	2	dose response plus consistency can lead
3	you whether you agree with it or not under	3	one to conclude that there is a causal
4	the strength of association, second two	4	association between secondhand smoke and,
5	sentences from the bottom of the first	5	say, lung cancer.
6	paragraph, "Of special importance, Cornfield,	6	Q. So where is the statement that
7	et al., acknowledged that having only a weak	7	you have to in the absence of a high risk
8	association does not rule out causal	8	ratio or in the presence of a weak risk ratio
9	association. Today, some associations, such	9	that you need to have dose response and
10	as those between smoking and cardiovascular	10	consistency?
11	disease or between environmental tobacco	11	A. Because
12	smoke and lung cancer are accepted by most as	12	Q. Or is that is that your
13	causal, even though the associations are	13	postulate?
14	considered weak."	14	A. No, that is not my postulate.
15	Do you agree with that?	15	That's those things oftentimes go
16	A. So I'm going to if you just	16	hand in hand. And the reason I say this, if
17	give me a second to read it over again.	17	there's a relative risk of 200, it's going to
18	Q. Uh-huh.	18	be very difficult to explain that away.
	A. Because I'm seeing this for the	19	Say we used the pulmonary
19	A. Because I ill seeing this for the	1	• • • • • • • • • • • • • • • • • • • •
20	first time.	20	hypertension example. The odds ratio is 23
	first time.	20 21	for patients that use that medication for
20	first time. So again, we're talking about		
20 21	first time. So again, we're talking about generalizations here, and there are there	21	for patients that use that medication for
20 21 22	first time. So again, we're talking about generalizations here, and there are there may be instances where a relative risk or an	21 22	for patients that use that medication for more than three months. So and that gets
20 21 22 23	first time. So again, we're talking about generalizations here, and there are there	21 22 23	for patients that use that medication for more than three months. So and that gets at the dose response and gets at the factors

	Page 318		Page 320
1	the dose response.	1	objection that this is an excerpt that
2	So secondhand smoke over a	2	was cut off at the end, and it's not a
3	sufficient amount of time, given a sufficient	3	complete chapter or a complete
4	amount of exposure, even though there may be	4	anything.
5	a weak relative risk, that potentially could	5	MR. TISI: Okay. Well, it's a
6	be a causal could one could conclude	6	complete paragraph that talks about
7	causality because of the other considerations	7	the strength of association, so
8	that are present.	8	let's
9	Q. On the next page I'm going	9	MR. LOCKE: Objection.
10	to ask you about secondhand smoke. Before I	10	THE WITNESS: I'm sorry, I just
11	do, let's go to the next page. It says,	11	need a little bit of time to find it.
12	"These examples remind us that a strong	12	QUESTIONS BY MR. TISI:
13	association is neither necessary nor	13	Q. That's fine.
14	sufficient for causality and that weakness	14	A. Okay. So I have three pages
15	isn't even necessary nor sufficient for the	15	photocopied here.
16	absence of causality."	16	Q. Correct.
17	Do you see that?	17	So if you go to the last page,
18	A. Is that the second sentence on	18	it has a paragraph with a bullet point that
19	the top?	19	says, "Strength of Association."
20	Q. Yes. "These examples remind us	20	Do you see that?
21	that a strong association is neither	21	And if you read it and tell me
22	necessary nor sufficient for causality and	22	where Dr. Oleckno talks about strong,
23	that weakness is neither necessary nor	23	moderate and weak associations.
24	sufficient for absence of causality."	24	MS. MILLER: Objection.
25	Do you agree with that?	25	MR. LOCKE: Objection.
	Page 319		Page 321
1	A. So I think that this is one of	1	THE WITNESS: I think the
2	the one of the things that Bradford Hill	2	Oleckno textbook says in general, the
3	in his article said, that these are	3	stronger an association between a
4	considerations, and that if there is a risk	4	given exposure and outcome, the more
5	ratio, whether it's a relative risk or a odds	5	likely association is causal.
6	ratio of 200, it's difficult to explain that	6	It's also referencing a table,
7	away.	7	6.2 1:1: 41 H
			6.3, which is not here, so I'm not
8	Could it be explained away?	8	sure how I can even answer that.
8 9	Sure, if we didn't measure some factor that	8 9	sure how I can even answer that. QUESTIONS BY MR. TISI:
O	Sure, if we didn't measure some factor that is associated with the exposure and the		sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but,
9	Sure, if we didn't measure some factor that	9	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the
9 10	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use	9	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by
9 10 11	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal	9 10 11	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the
9 10 11 12	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use	9 10 11 12	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by
9 10 11 12 13	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use these as considerations.	9 10 11 12 13	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by definition," "a 1.2 to 1.6 by definition is
9 10 11 12 13 14	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use these as considerations. And further, if we're talking	9 10 11 12 13 14	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by definition," "a 1.2 to 1.6 by definition is weak."
9 10 11 12 13 14 15	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use these as considerations. And further, if we're talking about a weak association, say a weak relative	9 10 11 12 13 14 15	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by definition," "a 1.2 to 1.6 by definition is weak." And I don't see that
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9 10 11 12 13 14 15 16 17 18 19 20	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use these as considerations. And further, if we're talking about a weak association, say a weak relative risk or odds ratio, that less than 2, if there are other considerations that add to it, say dose response or consistency among studies, then that supports causality. Q. Let me go to the Oleckno	9 10 11 12 13 14 15 16 17 18 19 20	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by definition," "a 1.2 to 1.6 by definition is weak." And I don't see that definition, so you need to tell me where that definition is. A. It's an accepted definition in epidemiology. MS. MILLER: Objection.
9 10 11 12 13 14 15 16 17 18 19 20 21	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use these as considerations. And further, if we're talking about a weak association, say a weak relative risk or odds ratio, that less than 2, if there are other considerations that add to it, say dose response or consistency among studies, then that supports causality. Q. Let me go to the Oleckno article the Oleckno textbook again, and	9 10 11 12 13 14 15 16 17 18 19 20 21	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by definition," "a 1.2 to 1.6 by definition is weak." And I don't see that definition, so you need to tell me where that definition is. A. It's an accepted definition in epidemiology. MS. MILLER: Objection. QUESTIONS BY MR. TISI:
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9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Sure, if we didn't measure some factor that is associated with the exposure and the outcome and is not in between the causal pathway. But it it's a reason to use these as considerations. And further, if we're talking about a weak association, say a weak relative risk or odds ratio, that less than 2, if there are other considerations that add to it, say dose response or consistency among studies, then that supports causality. Q. Let me go to the Oleckno article the Oleckno textbook again, and let me ask you this. He also it's the same one we talked about before. So we can	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	sure how I can even answer that. QUESTIONS BY MR. TISI: Q. Yeah, but you said but, Doctor, you said here you said here at the end "by definition." You use the phrase "by definition," "a 1.2 to 1.6 by definition is weak." And I don't see that definition, so you need to tell me where that definition is. A. It's an accepted definition in epidemiology. MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. By whom? A. Epidemiologists.

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	Page 322		Page 324
1	textbook and I've never seen a definition,	1	MR. LOCKE: Objection.
2	and you don't provide it. So I want to know	2	MS. MILLER: Objection.
3	where you find it	3	QUESTIONS BY MR. TISI:
4	MR. LOCKE: Objection.	4	Q. You're cherry-picking.
5	MS. MILLER: Objection.	5	I'm going to show you what
6	QUESTIONS BY MR. TISI:	6	Dr. Siemiatycki says. Actually, let me just
7	Q other than the Australian	7	choose actually I'm going to choose
8	thing that we talked about before. Where?	8	Dr. Siemiatycki. Here's his report. I'm
9	MS. MILLER: Objection.	9	going to attach it as Exhibit Number 33, his
10		10	discussion of that issue.
11	MR. LOCKE: Objection.	11	
	THE WITNESS: It's in my	1	(Merlo Exhibit 33 marked for
12	reference. We can pull that and look	12	identification.)
13	at it, if you'd like.	13	QUESTIONS BY MR. TISI:
14	QUESTIONS BY MR. TISI:	14	Q. He's one of the people you
15	Q. Okay. I'm going to find it in	15	criticize, right?
16	your references?	16	A. I critiqued plaintiffs'
17	A. It's that reference.	17	reports.
18	Q. Okay. That Australian white	18	Q. Right.
19	paper?	19	And you say, "Dr. Siemiatycki
20	MS. MILLER: Objection.	20	states," and you have a quote, which indeed I
21	THE WITNESS: Let me look	21	will tell you appears in the report, but it's
22	through. I'll look through my report	22	not the whole thing of what he says. Does
23	again.	23	it would you agree?
24	QUESTIONS BY MR. TISI:	24	MS. MILLER: Objection.
25	Q. Actually, Doctor, I think	25	THE WITNESS: Can you ask that
	D- m- 222	1	
	Page 323		Page 325
1	that's where it is. I'm not going to ask you	1	Page 325 again? I'm not sure what you're
1 2		1 2	
	that's where it is. I'm not going to ask you	1	again? I'm not sure what you're
2	that's where it is. I'm not going to ask you to move on.	2	again? I'm not sure what you're asking me.
2 3	that's where it is. I'm not going to ask you to move on. But you criticize plaintiffs'	2 3	again? I'm not sure what you're asking me. QUESTIONS BY MR. TISI:
2 3 4	that's where it is. I'm not going to ask you to move on. But you criticize plaintiffs' experts because they say they call this	2 3 4	again? I'm not sure what you're asking me. QUESTIONS BY MR. TISI: Q. Yes. I'm going to read his
2 3 4 5	that's where it is. I'm not going to ask you to move on. But you criticize plaintiffs' experts because they say they call this strong, this 1.2 to 1.6 as strong.	2 3 4 5	again? I'm not sure what you're asking me. QUESTIONS BY MR. TISI: Q. Yes. I'm going to read his section that talks about strength of association.
2 3 4 5 6	that's where it is. I'm not going to ask you to move on. But you criticize plaintiffs' experts because they say they call this strong, this 1.2 to 1.6 as strong. Do you see that? Page 43 of	2 3 4 5 6	again? I'm not sure what you're asking me. QUESTIONS BY MR. TISI: Q. Yes. I'm going to read his section that talks about strength of association. MS. MILLER: I'm going to
2 3 4 5 6 7	that's where it is. I'm not going to ask you to move on. But you criticize plaintiffs' experts because they say they call this strong, this 1.2 to 1.6 as strong. Do you see that? Page 43 of your report? A. I do see that. Plaintiffs'	2 3 4 5 6 7	again? I'm not sure what you're asking me. QUESTIONS BY MR. TISI: Q. Yes. I'm going to read his section that talks about strength of association. MS. MILLER: I'm going to object to this
2 3 4 5 6 7 8	that's where it is. I'm not going to ask you to move on. But you criticize plaintiffs' experts because they say they call this strong, this 1.2 to 1.6 as strong. Do you see that? Page 43 of your report?	2 3 4 5 6 7 8	again? I'm not sure what you're asking me. QUESTIONS BY MR. TISI: Q. Yes. I'm going to read his section that talks about strength of association. MS. MILLER: I'm going to object to this MR. TISI: Of course you're
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82 (Pages 322 to 325)

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1	Page 326		Page 328
1	risk ratio could not have occurred by	1	That means the best estimate from an ep
2	chance."	2	from the epidemiologic literature is that
3	QUESTIONS BY MR. TISI:	3	women who regularly used talcum powder
4	Q. Do you see that?	4	products in the genital area had a 28 percent
5	MR. LOCKE: Objection.	5	higher risk of ovarian cancer than a woman
6	QUESTIONS BY MR. TISI:	6	who did not use such powder. As I illustrate
7	Q. It's on page 63, and that's the	7	in Table 11, which I attach" because it
8	quote you had.	8	refers to there, if you take a look on
9	MS. MILLER: You objected to	9	page at the on page 87, it has a
10	cherry-picking. These are seven	10	Table 11. He lists numerous kinds of
11	cherry-picked pages from an expert	11	urban air pollution, trichloroethylene,
12	report.	12	diesel engine emissions, benzene, domestic
13	MR. TISI: They're not	13	radon gas, secondhand cigarette smoke,
14	cherry-picked pages. Every part that	14	intermittent, intense sun exposure, et
15	talks about	15	cetera. He lists a lot of them, all within a
16	MS. MILLER: I don't know what	16	relative risk of 1.09, with the highest being
17	cherry-picked means to you, but	17	1.64.
18	MR. TISI: Well, Counsel, then	18	Do you see that table?
19	keep your objections to yourself.	19	A. I do.
20	MR. LOCKE: Objection.	20	Q. "As I illustrate in Table 11
21	MR. TISI: "Objection, form,"	21	with a few examples, this relative risk is in
22	is fine.	22	line with well-recognized risk factors for
23	QUESTIONS BY MR. TISI:	23	cancer and other diseases. For example, it
24	Q. Doctor, this is the paragraph	24	is well-accepted now that people living in an
25	that you quote in your report, correct? It's	25	urban neighborhood in which there is in
	, , , , , ,		
	Page 327		Page 329
1	the last sentence of a full paragraph.	1	which the air is highly polluted with
2	A. I'd have to look at his full	2	particulate matter have a 5 to 10 percent
3	report to know if that's the one I'm quoting.	3	excess risk of lung cancer compared to people
4	Said that again somewhere.	4	living in a less polluted urban neighborhood.
5	Q. Okay. Doctor, it says, "Such a		
	Q. Okay. Doctor, it says, Such a	5	Also is well-accepted that workers exposed to
6	high" you look at your report on page 43.	5 6	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about
6 7		1	Also is well-accepted that workers exposed to
	high" you look at your report on page 43.	6	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about
7	high" you look at your report on page 43. It says, "Such a high and significant," in	6 7	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about a 40 percent higher chance of kidney cancer
7 8	high" you look at your report on page 43. It says, "Such a high and significant," in parentheses, "relative risk could not have	6 7 8	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about a 40 percent higher chance of kidney cancer compared to workers not exposed to
7 8 9	high" you look at your report on page 43. It says, "Such a high and significant," in parentheses, "relative risk could not have occurred by chance." And that's the sentence	6 7 8 9	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about a 40 percent higher chance of kidney cancer compared to workers not exposed to trichloroethylene. Thus, the 28 percent
7 8 9 10	high" you look at your report on page 43. It says, "Such a high and significant," in parentheses, "relative risk could not have occurred by chance." And that's the sentence on page 63.	6 7 8 9 10	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about a 40 percent higher chance of kidney cancer compared to workers not exposed to trichloroethylene. Thus, the 28 percent increase in ovarian cancer for women who used
7 8 9 10 11	high" you look at your report on page 43. It says, "Such a high and significant," in parentheses, "relative risk could not have occurred by chance." And that's the sentence on page 63. A. So we're looking at page 63	6 7 8 9 10 11	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about a 40 percent higher chance of kidney cancer compared to workers not exposed to trichloroethylene. Thus, the 28 percent increase in ovarian cancer for women who used talcum powder products is in line with many
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	high" you look at your report on page 43. It says, "Such a high and significant," in parentheses, "relative risk could not have occurred by chance." And that's the sentence on page 63. A. So we're looking at page 63 of Q. Correct. A Dr. Siemiatycki's report. Q. Right. And that's at the end of a paragraph, right? A. That's at the end of a paragraph. Q. Okay. So let's look at what he says before that. "Strength of association. This	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Also is well-accepted that workers exposed to a solvent called trichloroethylene had about a 40 percent higher chance of kidney cancer compared to workers not exposed to trichloroethylene. Thus, the 28 percent increase in ovarian cancer for women who used talcum powder products is in line with many risk factors. This increased risk is manifested by a meta research meta risk ratio that is statistically significant." And then it has the sentence you quoted. He's very clear about the range of relative risks and compares it to a number of other well-accepted carcinogens, does he not? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I see that there

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Christian Merlo, M.D., MPH

	Page 330		Page 332
1	QUESTIONS BY MR. TISI:	1	MS. MILLER: Again, I'm going
2	Q. And you	2	to have to have the same objection. I
3	A. However, this says nothing	3	don't know why you didn't just provide
4	about the strength of association. It just	4	the entire expert report.
5	says that there's an association between	5	This is pages 11, 12, 13, 14,
6	these agents and this disease with this	6	15, 16. We don't have pages 1 to 10.
7	relative risk.	7	We don't have
8	These are all under 2. That	8	MR. TISI: Counsel, I got your
9	doesn't that says nothing about the	9	objection. I got your
10	strength. It's a weak association of all of	10	MS. MILLER: pages after 16,
11	them.	11	and page 16 ends in the middle of a
12	Q. Okay. Then he goes on and he's	12	sentence.
13	asked about that in his deposition, and I'm	13	MR. TISI: I got your I got
14	going to attach that. And I'm not going to	14	your objection, Counsel.
15	spend a lot of time on it, but for the	15	MR. LOCKE: Same objection.
16	record, that will be on the record, Exhibit	16	QUESTIONS BY MR. TISI:
17	Number 34.	17	Q. Doctor, can you turn to page 15
18	(Merlo Exhibit 34 marked for	18	of Dr. Moorman's report, which I have put
19	identification.)	19	here, which I will represent to you is a
20	QUESTIONS BY MR. TISI:	20	whole section on strength of association.
21	Q. And did you cite anything from	21	She has a paragraph, "The
22	his deposition?	22	overall association seen in talc/ovarian
23	MS. MILLER: Objection.	23	cancer meta-analyses, as well as many other
24	THE WITNESS: I'd have to look	24	individual studies, are statistically
25	through my report.	25	significant, indicating an increased risk of
	unough my report.		organicani, maleuting an increased risk or
	Page 331		Page 333
1	QUESTIONS BY MR. TISI:	1	approximately 25 to 30 percent. While not as
2	Q. Let me show you another	2	high as other relationship, like smoking and
3	example: Dr. Moorman. Dr. Moorman, who you	3	lung cancer, these relative risks are in line
4	also criticize as saying, "Taken as a whole,	4	with other generally accepted causal
5	the overwhelming statistical strength of	5	relationships. Example, secondhand smoke and
6	these studies" sorry, "by the strength of	6	lung cancer: I consider the strength of
7	the studies, whose results are replicated	7	
8		1	association as seen in the ovarian cancer
	over decades and over a wide variety of	8	epidemiologic studies to be an important
9	populations and investigators, further	8 9	epidemiologic studies to be an important factor in favor of a causal relationship
9 10	populations and investigators, further supported by consistent meta-analysis, weigh		epidemiologic studies to be an important factor in favor of a causal relationship between talc and ovarian cancer, particularly
9 10 11	populations and investigators, further supported by consistent meta-analysis, weigh heavily in favor of a causal inference."	9 10 11	epidemiologic studies to be an important factor in favor of a causal relationship between talc and ovarian cancer, particularly when considered along with the consistency
9 10 11 12	populations and investigators, further supported by consistent meta-analysis, weigh heavily in favor of a causal inference." That was what you said that	9 10	epidemiologic studies to be an important factor in favor of a causal relationship between talc and ovarian cancer, particularly when considered along with the consistency and association seen across these studies."
9 10 11 12 13	populations and investigators, further supported by consistent meta-analysis, weigh heavily in favor of a causal inference." That was what you said that Dr. Moorman said, correct?	9 10 11	epidemiologic studies to be an important factor in favor of a causal relationship between talc and ovarian cancer, particularly when considered along with the consistency and association seen across these studies." Dr. Moorman is not has
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9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	populations and investigators, further supported by consistent meta-analysis, weigh heavily in favor of a causal inference." That was what you said that Dr. Moorman said, correct? A. You'd have to refer to me where I said that. Q. On page 43 and 44 of your report. A. And I apologize. I don't have these this memorized. So, you know, you're reading stuff Q. Well, I do, and I didn't write it. Here you go. MS. MILLER: Objection.	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	epidemiologic studies to be an important factor in favor of a causal relationship between talc and ovarian cancer, particularly when considered along with the consistency and association seen across these studies." Dr. Moorman is not has characterized what the studies show. The numbers are the numbers, correct? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: You'd have to show me what you're referring to. The numbers are the numbers. QUESTIONS BY MR. TISI: Q. All right. Well, let's do that. Dr. Moorman

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Christian Merlo, M.D., MPH

	Page 334		Page 336
1	of her report that he cites. Is that	1	saying that I think it's more accurate
2	correct?	2	just to describe it as it is, a 25 to
3	(Merlo Exhibit 36 marked for	3	30 percent increase of risk of ovarian
4	identification.)	4	cancer, but I don't know what she's
5	QUESTIONS BY MR. TISI:	5	referring to there
6	Q. Here's your here's Exhibit	6	QUESTIONS BY MR. TISI:
7	Number 36, please.	7	Q. Okay.
8	She's asked the questions on	8	A whether that's one study,
9	page 249 of her report of her deposition.	9	all studies, a meta-analysis, anything.
10	"I think you're conflating or	10	Q. Okay.
11	misunderstanding my question." This is the	11	A. One could also say that a
12	Johnson & Johnson lawyer asking the question.	12	relative risk of 1.25 or 1.30 is a weak
13	"I think you're conflating or	13	association.
14	you're misunderstanding my question because	14	Q. Okay. But you are
15	you're answering the question"	15	characterizing what they testified to, and
16	A. I'm sorry, where are we?	16	you were cherry-picking statements from their
17	Q. Page 249, starting on line 3.	17	report, were you not?
18	Okay? "And I think you're	18	MS. MILLER: Objection.
19	conflating or you're misunderstanding my	19	MR. LOCKE: Objection.
20	question because you're answering the	20	THE WITNESS: I don't know what
21	question about whether the association is	21	you mean by "cherry-picking."
22	real or not real, and my question for you is	22	QUESTIONS BY MR. TISI:
23	whether the association is weak, modest or	23	Q. Meaning taking
24	strong. How would you characterize it?" to	24	A. I read their depositions
25	Dr. Moorman.	25	sorry, I read their reports and I critiqued
	Page 335		Page 337
1	Her answer: "Answer, as I	1	their reports. And by saying that a relative
2	would as I have said, there is no absolute	2	risk of 1.2 is a strong association is so far
3	**************************************		
	terminology that would say what is a weak	3	out of line of the epidemiologic community
4	association, what is modest and what is	4	that that is my critique.
5	association, what is modest and what is strong. So I think it is more accurate just		that that is my critique. MR. TISI: Okay. We're about
5 6	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent	4	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you
5 6 7	association, what is modest and what is strong. So I think it is more accurate just	4 5	that that is my critique. MR. TISI: Okay. We're about
5 6	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent	4 5 6	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you
5 6 7	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent increased risk of ovarian cancer." Do you see that? A. I see that.	4 5 6 7	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you want to take a break, this is a good
5 6 7 8	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent increased risk of ovarian cancer." Do you see that? A. I see that. Q. Okay. She didn't characterize	4 5 6 7 8	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you want to take a break, this is a good time unless you want me to just plow
5 6 7 8 9 10	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent increased risk of ovarian cancer." Do you see that? A. I see that.	4 5 6 7 8 9 10	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you want to take a break, this is a good time unless you want me to just plow forward. MS. MILLER: How long is the next area?
5 6 7 8 9 10	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent increased risk of ovarian cancer." Do you see that? A. I see that. Q. Okay. She didn't characterize	4 5 6 7 8 9	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you want to take a break, this is a good time unless you want me to just plow forward. MS. MILLER: How long is the
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	association, what is modest and what is strong. So I think it is more accurate just to describe it as it is, a 25 to 30 percent increased risk of ovarian cancer." Do you see that? A. I see that. Q. Okay. She didn't characterize it as strong, did she? MS. MILLER: Objection. MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. She characterized it by the number, correct? MS. MILLER: Objection. MR. LOCKE: Objection. MR. LOCKE: Objection. MR. TISI: I'm asking I'm asking when she was asked the question at deposition. MR. LOCKE: Objection.	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	that that is my critique. MR. TISI: Okay. We're about ready to go into a new area, so if you want to take a break, this is a good time unless you want me to just plow forward. MS. MILLER: How long is the next area? MR. TISI: I have no idea. It depends on whether he says "it depends" all the time. MR. LOCKE: Objection. THE WITNESS: I can take a break. MR. TISI: Perfect. THE WITNESS: Get some coffee. MR. TISI: Perfect. VIDEOGRAPHER: The time is 3:01 p.m. We're going off the record. (Off the record at 3:01 p.m.) VIDEOGRAPHER: The time is
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	Page 338		Page 340
1	record.	1	are the risk ratios, correct?
2	QUESTIONS BY MR. TISI:	2	A. Yes, the first column's the
3	Q. Doctor, could you go to page 31	3	study authors and the dates. The second
4	of your report? I'm going to talk about	4	column is either the odds ratio, relative
5	consistency and statistical significance.	5	risk or hazard ratio.
6	A. Sure.	6	Q. Can we call them risk ratios
7	Q. We've spent a lot of time	7	generally?
8	talking about consistency and your opinion	8	Can we call them is there a
9	that there is no consistency, so I think	9	general I thought we could call them risk
10	we'll be able to go through this pretty	10	ratios, but
11	quickly.	11	A. Sure. It's just that in an
12	But if you go to page 31, you	12	an odds ratio is something that's determined
13	criticize plaintiffs' experts well, you	13	in a case-control study and a relative risk,
14	say, "Lack of consistency between studies.	14	which in a hazard ratio deal with time, and
15	One of the most striking aspects of their	15	those are involved in cohort studies.
16	studies is their inconsistency."	16	Q. I understand. I understand.
17	Do you see that?	17	But the second column are the
18	A. No.	18	risk ratios generally?
19	Where am I saying that?	19	A. Estimates of risk, yes.
20	Q. First sentence of your	20	Q. Estimates of risk.
21	Section A on page 31.	21	And the third column are the
22	A. Okay.	22	confidence interval.
23	Q. Okay. And you note, and I'm	23	And tell me what a confidence
24	summarizing here, that there are seven	24	interval is.
25	hospital-based studies, four cohort studies	25	A. A confidence interval is when
	,		
	Page 339		Page 341
1	and some population studies that have	1	you do an analysis and you get a some
2	atatiatically insignificant magnitude		
	statistically insignificant results.	2	estimate of risk, some point estimate, which
3	And we talked about that	2	estimate of risk, some point estimate, which would be that second column. Then you're
3	And we talked about that	3	would be that second column. Then you're
3 4	And we talked about that before; do you recall?	3 4	would be that second column. Then you're given then you obtain what's called a
3 4 5	And we talked about that before; do you recall? A. We talked about cohort studies.	3 4 5	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort
3 4 5 6	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We	3 4 5 6	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance
3 4 5 6 7	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We	3 4 5 6 7	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall.
3 4 5 6 7 8	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in	3 4 5 6 7 8	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right.
3 4 5 6 7 8 9	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in population-based studies as well as	3 4 5 6 7 8	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right. A. And in general, when the
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3 4 5 6 7 8 9 10 11 12 13	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in population-based studies as well as statistical insignificance in population-based studies as well as statistical insignificance in hospital-based and statistical insignificance within cohort	3 4 5 6 7 8 9 10 11 12 13	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right. A. And in general, when the 95 percent confidence interval overlies 1, that signifies a nonstatistically significant point estimate of risk. Q. But the confidence interval
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in population-based studies as well as statistical insignificance in population-based studies as well as statistical insignificance in hospital-based and statistical insignificance within cohort studies. Q. Right. And on page 34 of your report, you have a chart that you put in summarizing the studies, correct?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right. A. And in general, when the 95 percent confidence interval overlies 1, that signifies a nonstatistically significant point estimate of risk. Q. But the confidence interval encompasses the range of likely where the likely results are likely to be to a 95 percent certainty? A. The I don't know that I would say certainty. I think it's the it's the range of
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in population-based studies as well as statistical insignificance in population-based studies as well as statistical insignificance in hospital-based and statistical insignificance within cohort studies. Q. Right. And on page 34 of your report, you have a chart that you put in summarizing the studies, correct? A. Page 34 is a chart that summarizes case-control studies as well as cohort studies, and the case controls are	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right. A. And in general, when the 95 percent confidence interval overlies 1, that signifies a nonstatistically significant point estimate of risk. Q. But the confidence interval encompasses the range of likely where the likely results are likely to be to a 95 percent certainty? A. The I don't know that I would say certainty. I think it's the it's the range of the point estimate above which or below which there would be a 2.5 percent chance of that
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in population-based studies as well as statistical insignificance in population-based studies as well as statistical insignificance in hospital-based and statistical insignificance within cohort studies. Q. Right. And on page 34 of your report, you have a chart that you put in summarizing the studies, correct? A. Page 34 is a chart that summarizes case-control studies as well as cohort studies, and the case controls are broken down into hospital-based and	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right. A. And in general, when the 95 percent confidence interval overlies 1, that signifies a nonstatistically significant point estimate of risk. Q. But the confidence interval encompasses the range of likely where the likely results are likely to be to a 95 percent certainty? A. The I don't know that I would say certainty. I think it's the it's the range of the point estimate above which or below which there would be a 2.5 percent chance of that point estimate falling.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	And we talked about that before; do you recall? A. We talked about cohort studies. We talked about hospital-based studies. We talked about population-based studies. We talked about statistical significance in population-based studies as well as statistical insignificance in population-based studies as well as statistical insignificance in hospital-based and statistical insignificance within cohort studies. Q. Right. And on page 34 of your report, you have a chart that you put in summarizing the studies, correct? A. Page 34 is a chart that summarizes case-control studies as well as cohort studies, and the case controls are	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	would be that second column. Then you're given then you obtain what's called a 95 percent confidence interval, which is sort of the range within statistical significance where that point estimate might fall. Q. Right. A. And in general, when the 95 percent confidence interval overlies 1, that signifies a nonstatistically significant point estimate of risk. Q. But the confidence interval encompasses the range of likely where the likely results are likely to be to a 95 percent certainty? A. The I don't know that I would say certainty. I think it's the it's the range of the point estimate above which or below which there would be a 2.5 percent chance of that

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		1	
	Page 342		Page 344
1	that usually relates to heterogeneity within	1	separate exhibit.
2	the study, a small study population, problems	2	(Merlo Exhibit 37 marked for
3	in collecting appropriate information.	3	identification.)
4	If the confidence interval is	4	QUESTIONS BY MR. TISI:
5	narrow, usually that reflects a larger study	5	Q. And I'm going to do it Exhibit
6	population.	6	Number 37.
7	Q. And the last column is your	7	A. Thank you.
8	assessment of the strength of the	8	Q. I'm going to come back to it,
9	association, if there is one, right?	9	and I don't want to keep flipping back and
10	You say, "Is it a statistically	10	forth to the pages.
11	significant association?"	11	A. Okay.
12	And that's your interpretations	12	Q. And this is your this chart
13	here, correct?	13	summarizes the the last column here
14	A. It says, "If there's a	14	summarizes your view of the inconsistency of
15	statistically significant association."	15	these studies. The now are inconsistence
16	That's what's reported in the journal.	16	with the weaks?
17	Q. Okay. And then the "no" in the	17	MS. MILLER: Objection.
18	last column stands for not statistically	18	THE WITNESS: So what not
19	significant?	19	only that, I mean, what this does
20	A. The "no" stands for not	20	summarize, inconsistency within
21	statistically significant, that's correct.	21	population-based case-control studies
22	Q. And the "weak" stands for	22	where some studies show a weak
23	statistically significant and with your	23	statistically significant association
24	characterization of the strength of the	24	while some studies do not show any
25	association?	25	statistically significant association.
	Page 343		Page 345
	<u> </u>		1 4 5 6 1 5
1	_	1	
1 2	A. The "weak" stands for a weak	1 2	But there's also differences
1 2 3	A. The "weak" stands for a weak statistically significant association.	2	But there's also differences in within study the same study
2	A. The "weak" stands for a weak statistically significant association. Q. But that's your	2 3	But there's also differences in within study the same study design. Say, within case controls,
2	A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'?	2 3 4	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there
2 3 4	 A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'? A. That is what is they're all 	2 3	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there are seven of them, and none of them
2 3 4 5	A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'? A. That is what is they're all below 2, statistically significant	2 3 4 5	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there are seven of them, and none of them have a statistically significant
2 3 4 5 6	A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'? A. That is what is they're all below 2, statistically significant Q. Okay.	2 3 4 5 6	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there are seven of them, and none of them
2 3 4 5 6 7	A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'? A. That is what is they're all below 2, statistically significant	2 3 4 5 6 7	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there are seven of them, and none of them have a statistically significant association, and therefore case con
2 3 4 5 6 7 8	A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'? A. That is what is they're all below 2, statistically significant Q. Okay. A. Which suggests a weak	2 3 4 5 6 7 8	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there are seven of them, and none of them have a statistically significant association, and therefore case con sorry, four cohort studies which do not show any statistically
2 3 4 5 6 7 8 9	A. The "weak" stands for a weak statistically significant association. Q. But that's your characterization; that's not the authors'? A. That is what is they're all below 2, statistically significant Q. Okay. A. Which suggests a weak association, yes.	2 3 4 5 6 7 8 9	But there's also differences in within study the same study design. Say, within case controls, hospital-based case controls, there are seven of them, and none of them have a statistically significant association, and therefore case con sorry, four cohort studies which do not show any statistically significant.
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	Page 346		Page 348
1	significant result is inconsistent with a	1	was such a loaded question.
2	for example, let's go back down here. Let's	2	MR. TISI: Oh, it is. It's a
3	take see the Rosenblatt study, which was	3	loaded it's a loaded headnote.
4	one that was done at your institution. That	4	THE WITNESS: So I'm not
5	has was nonstatistically significant, in	5	accusing anybody of anything.
6	your view, and that is inconsistent with	6	MS. MILLER: Objection.
7	Cramer, which is shows a weak a weak	7	THE WITNESS: I'm just
8		8	3
9	statistically significant results.	9	reporting what the medical evidence shows. And the medical evidence shows
10	MS. MILLER: Objection. That	10	
11	mischaracterizes either his report or	11	that there is inconsistency among
	his testimony, whichever it is that		similar study designs, inconsistency
12	you're characterizing.	12	between hospital-based and
13	QUESTIONS BY MR. TISI:	13	population-based case controls,
14	Q. Doctor, is it your view that,	14	inconsistency among population
15	using the example I just took, Cramer is	15	case-controls, and inconsistency
16	inconsistent with Rosenblatt?	16	between cohort studies and case
17	A. Which Cramer?	17	controls, all leading to
18	Q. Cramer 1982 and Rosenblatt	18	inconsistency.
19	1992.	19	I'm not accusing anyone of
20	A. So Cramer 1982 shows a point	20	anything. I'm just reporting what's
21	estimate of 1.92, and the 95 percent	21	in the medical literature.
22	confidence interval is 1.27 to 2.89.	22	QUESTIONS BY MR. TISI:
23	Rosenblatt, 1.27	23	Q. Okay. So but you didn't just
24	Q. No, Rosenblatt Rosenblatt	24	say they're inconsistent result. You say
25	1992, which is a hospital-based study.	25	plaintiffs' experts fabricate consistency
	Page 347		Page 349
1	A. Rosenblatt '92. Okay.	1	when there is none. Right?
2	Q. A hospital-based study.		
_	Q. 11 hospital basea staay.	2	So that's I mean, maybe I'm
3	A. So that's a 1.7, with the	2 3	So that's I mean, maybe I'm splitting hairs, but that's a little bit more
3 4		l	
	A. So that's a 1.7, with the	3	splitting hairs, but that's a little bit more
4	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9.	3 4	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find
4 5	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9. Now, Cramer 1982 is	3 4 5	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find the studies inconsistent. Right?
4 5 6	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9. Now, Cramer 1982 is statistically significant. Rosenblatt '92 Cramer '82, statistically significant;	3 4 5 6	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find the studies inconsistent. Right? MS. MILLER: Objection. MR. LOCKE: Objection.
4 5 6 7	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9. Now, Cramer 1982 is statistically significant. Rosenblatt '92	3 4 5 6 7	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find the studies inconsistent. Right? MS. MILLER: Objection.
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9. Now, Cramer 1982 is statistically significant. Rosenblatt '92 Cramer '82, statistically significant; Rosenblatt '92, not statistically significance. Q. And are those inconsistent? MS. MILLER: Objection. THE WITNESS: One is statistically significant, and one is not statistically significant. They are inconsistent with each other. QUESTIONS BY MR. TISI: Q. Okay. So and on page 44 and 45 of your report, you criticize plaintiffs' experts. You say, "I would agree" you see, this is the part where you accuse them of fabrication. Page 44. "Plaintiffs'	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find the studies inconsistent. Right? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I don't know. I don't know what your definition of inflammatory is. QUESTIONS BY MR. TISI: Q. Okay. I think if somebody accused you of fabrication, you might be thinking that that might be inflammatory, but we'll see. MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Let's move on. You say plaintiffs' experts uniformly assert I'm sorry, uniformly assert consistent criterion has been
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9. Now, Cramer 1982 is statistically significant. Rosenblatt '92 Cramer '82, statistically significant; Rosenblatt '92, not statistically significance. Q. And are those inconsistent? MS. MILLER: Objection. THE WITNESS: One is statistically significant, and one is not statistically significant. They are inconsistent with each other. QUESTIONS BY MR. TISI: Q. Okay. So and on page 44 and 45 of your report, you criticize plaintiffs' experts. You say, "I would agree" you see, this is the part where you accuse them of fabrication. Page 44. "Plaintiffs' experts fabricate consistency by ignoring	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find the studies inconsistent. Right? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I don't know. I don't know what your definition of inflammatory is. QUESTIONS BY MR. TISI: Q. Okay. I think if somebody accused you of fabrication, you might be thinking that that might be inflammatory, but we'll see. MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Let's move on. You say plaintiffs' experts uniformly assert I'm sorry, uniformly assert consistent criterion has been satisfied, and then you go on to say, "I
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. So that's a 1.7, with the 95 percent confidence interval .7 to 3.9. Now, Cramer 1982 is statistically significant. Rosenblatt '92 Cramer '82, statistically significant; Rosenblatt '92, not statistically significance. Q. And are those inconsistent? MS. MILLER: Objection. THE WITNESS: One is statistically significant, and one is not statistically significant. They are inconsistent with each other. QUESTIONS BY MR. TISI: Q. Okay. So and on page 44 and 45 of your report, you criticize plaintiffs' experts. You say, "I would agree" you see, this is the part where you accuse them of fabrication. Page 44. "Plaintiffs'	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	splitting hairs, but that's a little bit more inflammatory than just simply saying, I find the studies inconsistent. Right? MS. MILLER: Objection. MR. LOCKE: Objection. THE WITNESS: I don't know. I don't know what your definition of inflammatory is. QUESTIONS BY MR. TISI: Q. Okay. I think if somebody accused you of fabrication, you might be thinking that that might be inflammatory, but we'll see. MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Let's move on. You say plaintiffs' experts uniformly assert I'm sorry, uniformly assert consistent criterion has been

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			- 050
	Page 350		Page 352
1	hospital-based case-control studies and among	1	here on in retyping this.
2	the large cohort studies showing no	2	I did not highlight
3	statistically significant inconsistencies"	3	statistically significant. So if you would
4	I'm sorry, "showing no association between	4	just do me a favor and take this pen and
5	talc exposure and ovarian cancer. By	5	circle "statistically significant" in the
6	contrast, the inconsistencies between	6	middle of that paragraph, I'd appreciate
7	hospital-based and population-based	7	that.
8	case-control and within population-based	8	MS. MILLER: Objection.
9	case-control studies."	9	QUESTIONS BY MR. TISI:
10	Did I read that right?	10	Q. Go ahead, if you don't mind.
11	Actually, let me I didn't	11	A. What do you want me to do?
12	· · · · · · · · · · · · · · · · · · ·	12	
13	read it right. Let me read it again.		Q. Just take statistically in
	"I would agree with plaintiffs'	13	because in your document, you actually
14	experts that there are some consistencies	14	highlight and italicize "statistically
15	between studies, but those consistencies are	15	significant" in your correct?
16	among hospital-based case-control studies and	16	MS. MILLER: Huh?
17	among large cohort studies showing no	17	QUESTIONS BY MR. TISI:
18	statistically significant association between	18	Q. In your on page 45, top
19	talc exposure and ovarian cancer. By	19	paragraph.
20	contrast, there are inconsistencies between	20	A. But that's not that's not
21	hospital-based and population-based	21	from page 45. This is page 44 from that
22	case-control studies and within	22	paragraph.
23	population-based case-control studies."	23	Q. Let me see. Maybe I gave you
24	Did I read that right?	24	the wrong one.
25	A. Yes, sir.	25	MS. MILLER: This is the
	Page 351		Page 353
1	Q. Okay. And then you go on to	1	paragraph
2	say and this is the statement that we	2	MR. TISI: I apologize. I'm
3	talked about before, the kind of the general	3	sorry, you're correct. It's
4	rule that you set out. It says, "It is	4	Exhibit 39.
5	important to remember, contrary to the	5	(Merlo Exhibit 39 marked for
6	suggestion of several of plaintiffs' experts	6	identification.)
7	on page 45, that for this criteria to weigh	7	MS. MILLER: So are we done
8	in favor of finding a causal relationship,	8	with this one?
9	there must be consistency and statistically	9	MR. TISI: I'm just mark it.
10	significant associations. Consistency is	10	It's the early part. We'll leave it
11	in relative risks that are not statistically	11	there.
12	significant is not meaningful because that	12	QUESTIONS BY MR. TISI:
13	sort of consistency does not provide any	13	Q. This is 39. I'm sorry, Doctor.
14	degree of confidence that the claim of	14	A. That's okay.
	as a confidence that the claim of	1 44	11. I Hat 5 OKay.
15		15	· · · · · · · · · · · · · · · · · · ·
15 16	association made by the study is more than	15 16	Q. This is the paragraph on the
16	association made by the study is more than random chance."	16	Q. This is the paragraph on the top of page 45. And I did not emphasize what
16 17	association made by the study is more than random chance." Did I read that right?	16 17	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that.
16 17 18	association made by the study is more than random chance." Did I read that right? A. That's correct.	16 17 18	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically
16 17 18 19	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for	16 17 18 19	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped
16 17 18 19 20	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for identification.)	16 17 18 19 20	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped this. So if you would do me a favor and just
16 17 18 19 20 21	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for identification.) QUESTIONS BY MR. TISI:	16 17 18 19 20 21	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped this. So if you would do me a favor and just circle the words "statistically significant,"
16 17 18 19 20 21 22	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. Now, I'm going to have	16 17 18 19 20 21 22	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped this. So if you would do me a favor and just circle the words "statistically significant," I'd appreciate it.
16 17 18 19 20 21 22 23	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. Now, I'm going to have that statement marked here as Exhibit	16 17 18 19 20 21 22 23	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped this. So if you would do me a favor and just circle the words "statistically significant," I'd appreciate it. MS. MILLER: I'm going to
16 17 18 19 20 21 22 23 24	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. Now, I'm going to have that statement marked here as Exhibit Number 38. But I'm going to do this, Doctor,	16 17 18 19 20 21 22 23 24	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped this. So if you would do me a favor and just circle the words "statistically significant," I'd appreciate it. MS. MILLER: I'm going to object to that. I think you should
16 17 18 19 20 21 22 23	association made by the study is more than random chance." Did I read that right? A. That's correct. (Merlo Exhibit 38 marked for identification.) QUESTIONS BY MR. TISI: Q. Okay. Now, I'm going to have that statement marked here as Exhibit	16 17 18 19 20 21 22 23	Q. This is the paragraph on the top of page 45. And I did not emphasize what you emphasized, and I apologize for that. You emphasized statistically significant, and I didn't when I retyped this. So if you would do me a favor and just circle the words "statistically significant," I'd appreciate it. MS. MILLER: I'm going to

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	Page 354		Page 356
1	THE WITNESS: It's mentioned	1	A. I do see that.
2	twice, so	2	Q. Is there any mention of
3	QUESTIONS BY MR. TISI:	3	statistical significance in this?
4	Q. Well, the one that you	4	MS. MILLER: Objection.
5	highlighted in your report.	5	THE WITNESS: There is not.
6	A. Looks like consistency and	6	QUESTIONS BY MR. TISI:
7	statistically significant. This and this.	7	Q. Okay.
8	Q. And this is your rule that you	8	A. But there's not a reference
9	set out. It says, "Important to remember,"	9	saying that that if it's not there, the
10	and this is a we talked about this earlier	10	opposite.
11	in your deposition. Although there is no	11	Q. Okay. Does it also talk about
12	citation for this, you agree that this is	12	there needs to be consistency among study
13	your you believe that this is a generally	13	designs?
14	accepted principle in epidemiology?	14	MS. MILLER: Objection.
15	A. It's a generally accepted	15	QUESTIONS BY MR. TISI:
16	principle in epidemiology.	16	Q. This talks about among studies
17	Q. Okay. Doctor, have you seen	17	but not study design, does it?
18	references to the fact that statistical	18	MS. MILLER: Objection.
19	significance is not the test of consistency?	19	THE WITNESS: It says, "If an
20	A. You'd have to show me a	20	association observed, we would expect
21	reference.	21	it to be seen consistently within
22	Q. Okay, let's do that. Could you	22	subgroups of the population and in
23	go can you pull out Exhibit 23, which is	23	different populations," which may
24	the "From Association to Causation" chapter	24	involve different studies and
25	that Johns Hopkins uses in courses there?	25	different study designs.
	•		, ,
	Page 355		Page 357
1	It's the Gordis text.	1	QUESTIONS BY MR. TISI:
2	Do you see that?	2	Q. But it doesn't say study
3	Do you have it in front of you?	3	designs, does it?
4	A. I have Chapter 14, yes,	4	MS. MILLER: Objection.
5	Exhibit 23.	5	THE WITNESS: I don't think it
6	Q. Can you go to page 251. On	6	has to. That's inherent in the
7	page it talks about Replications of	7	statement.
8	Findings, which is the consistency issue,	8	QUESTIONS BY MR. TISI:
9	right?	9	Q. Okay. Now, I previously asked
10	MS. MILLER: Objection.	10	you whether you had done any independent
11	THE WITNESS: I see where it	11	research on studies of talc and ovarian
12	says "Replication of Findings."	12	cancer, and you said you had not.
13	QUESTIONS BY MR. TISI:	13	Do you recall that?
14	Q. And it says, "If the	14	MS. MILLER: Objection.
15	relationship is causal, we would expect to	15	QUESTIONS BY MR. TISI:
16	find consistency in different studies and in	16	Q. That was very early in the day.
17	different populations. Replication of	17	MS. MILLER: Objection.
18	findings is particularly important in	18	THE WITNESS: I don't recall.
19	epidemiology. If an association as observed,	19	I'm going to have to see it.
20	we can also we would also expect it to be	20	QUESTIONS BY MR. TISI:
21	seen consistently within subgroups of the	21	Q. Okay. Have you done any
22	population and in different populations and	22	studies in talc and ovarian cancer?
23	unless there is a clear reason to expect	23	A. What do you mean by "studies"?
24	different results."	24	Q. Have you done any observational
25	Do you see that?	25	studies on talc and ovarian cancer?

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Page 358 1 A. I've reviewed the literature 2 Q. Have you done any studies? 3 A on the potential causal 4 association between talcum powder and ovarian 5 cancer. I've reviewed the literature. 6 Q. Have you authored any studies 7 on talc and ovarian cancer or designed any 8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 15 association between talc and ovarian cancer. 1 the Rosenblatt study, Exhibit Number 40 2 Did you actually read this 3 study? 4 A. I did. Q. Good. Let's go, so we don't have to spend a lot of time rereading it. A. I haven't memorized it, though. Q. Okay. One of the authors of this study, if you'll notice, is a guy we mentioned a couple times today, Dr. Szk He's the second author. A. Szklo, yes. Q. Szklo. He's at the school. He's a
Q. Have you done any studies? A on the potential causal association between talcum powder and ovarian cancer. I've reviewed the literature. Q. Have you authored any studies not talc and ovarian cancer or designed any studies on talc and ovarian cancer? A. I did. Q. Good. Let's go, so we don't have to spend a lot of time rereading it. A. I haven't memorized it, though. A. And I believe I told you no earlier on. Q. That was my question. Now, you mentioned in your report that there are seven hospital-based A. Szklo, yes. A. Szklo, A. Szklo.
3 A on the potential causal 4 association between talcum powder and ovarian 5 cancer. I've reviewed the literature. 6 Q. Have you authored any studies 7 on talc and ovarian cancer or designed any 8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 association between talcum powder and ovarian 4 A. I did. 9 Q. Good. 14 A. I did. 9 A. I haven't memorize to it, though. 9 Q. Okay. One of the authors of this study, if you'll notice, is a guy we mentioned a couple times today, Dr. Szk 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 15 Q. Good. 16 Let's go, so we don't have to spend a lot of time rereading it. 17 A. I haven't memorized it, though. 18 A. I haven't memorized it, though. 19 Q. Okay. One of the authors of this study, if you'll notice, is a guy we mentioned a couple times today, Dr. Szk 10 A. Szklo, yes. 11 A. Szklo, yes. 12 A. Szklo, yes. 13 A. Szklo, yes. 14 Case-control studies examining the
4 association between talcum powder and ovarian 5 cancer. I've reviewed the literature. 6 Q. Have you authored any studies 7 on talc and ovarian cancer or designed any 8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 15 Q. Good. 16 Let's go, so we don't have to 17 spend a lot of time rereading it. 18 A. I haven't memorized it, though. 19 Q. Okay. One of the authors of 10 this study, if you'll notice, is a guy we 11 mentioned a couple times today, Dr. Szk 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 Q. Szklo.
5 cancer. I've reviewed the literature. 6 Q. Have you authored any studies 7 on talc and ovarian cancer or designed any 8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 5 Q. Good. 16 Let's go, so we don't have to 17 spend a lot of time rereading it. 18 A. I haven't memorized it, though. 19 Q. Okay. One of the authors of 10 this study, if you'll notice, is a guy we 11 mentioned a couple times today, Dr. Szk 12 He's the second author. 13 A. Szklo, yes. 14 Q. Szklo.
6 Q. Have you authored any studies 7 on talc and ovarian cancer or designed any 8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 16 Let's go, so we don't have to 17 spend a lot of time rereading it. 8 A. I haven't memorized it, though. 9 Q. Okay. One of the authors of 10 this study, if you'll notice, is a guy we 11 mentioned a couple times today, Dr. Szk 12 he's the second author. 13 A. Szklo, yes. 14 Q. Szklo.
7 on talc and ovarian cancer or designed any 8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 17 spend a lot of time rereading it. 8 A. I haven't memorized it, though. 9 Q. Okay. One of the authors of this study, if you'll notice, is a guy we mentioned a couple times today, Dr. Szk 12 He's the second author. 13 A. Szklo, yes. 14 Q. Szklo.
8 studies on talc and ovarian cancer? 9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 8 A. I haven't memorized it, though. 9 Q. Okay. One of the authors of this study, if you'll notice, is a guy we mentioned a couple times today, Dr. Szk 12 He's the second author. 13 A. Szklo, yes. 14 Q. Szklo.
9 A. And I believe I told you no 10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 19 Q. Okay. One of the authors of 10 this study, if you'll notice, is a guy we 11 mentioned a couple times today, Dr. Szk 12 He's the second author. 13 A. Szklo, yes. 14 Q. Szklo.
10 earlier on. 11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 10 this study, if you'll notice, is a guy we mentioned a couple times today, Dr. Szk 11 He's the second author. 12 A. Szklo, yes. 13 Q. Szklo.
11 Q. That was my question. 12 Now, you mentioned in your 13 report that there are seven hospital-based 14 case-control studies examining the 15 mentioned a couple times today, Dr. Szk 16 He's the second author. 17 A. Szklo, yes. 18 Gay We mentioned a couple times today, Dr. Szk 19 He's the second author. 19 Q. Szklo, yes. 10 Q. Szklo.
12 Now, you mentioned in your 12 He's the second author. 13 report that there are seven hospital-based 13 A. Szklo, yes. 14 case-control studies examining the 14 Q. Szklo.
13 report that there are seven hospital-based 13 A. Szklo, yes. 14 case-control studies examining the 14 Q. Szklo.
14 case-control studies examining the 14 Q. Szklo.
15 association between talc and ovarian cancer. 15 He's at the school. He's a
16 A. Where did I say that? 16 full professor there.
17 Q. It's in your chart, and you 17 Have you ever said, you know,
mentioned it several times today. 18 "Doctor, there's a study done at our scho-
19 MS. MILLER: You just said, 19 What do you think about this relationship
20 this is in your report. 20 You've published on it."
21 THE WITNESS: You just said I 21 Have you gone and talked to
22 wrote it in my report, so I just 22 him?
23 wanted to see where I said it. 23 A. I have not.
24 QUESTIONS BY MR. TISI: 24 MS. MILLER: Objection.
25 Q. Are there not seven 25 MR. LOCKE: Objection.
Page 359 Page 3
1 observational seven hospital-based 1 MS. MILLER: Give us time to
2 studies, Doctor? 2 object, Doctor.
3 A. I have a chart here that has 3 THE WITNESS: Okay. Sorry.
4 seven hospital-based case-control studies. 4 I did my own independent
seven hospital-based case-control studies.
5 Q. Okay. And one of them we just 5 search, and I evaluated the body of
5 Q. Okay. And one of them we just 5 search, and I evaluated the body of
5 Q. Okay. And one of them we just 5 search, and I evaluated the body of talked about, it was Rosenblatt, and it was 6 medical evidence.
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 5 search, and I evaluated the body of medical evidence. 7 QUESTIONS BY MR. TISI:
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 5 search, and I evaluated the body of medical evidence. 7 QUESTIONS BY MR. TISI: 8 Q. Now, if you go to I'm sorry.
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 7 QUESTIONS BY MR. TISI: 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 9 A. I did read this article, and I
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 10 that on page 14 of your report. 9 G. Okay. And one of them we just 6 medical evidence. 7 QUESTIONS BY MR. TISI: 8 Q. Now, if you go to I'm sorry. 9 A. I did read this article, and I 10 did see that recall now that I did see h 11 page 14 of your report. 11 name on there, but it did not interfere or
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 10 that on page 14 of your report. Go to 11 page 14 of your report. 12 You say, "Rosenblatt is a 1992 5 search, and I evaluated the body of medical evidence. 7 QUESTIONS BY MR. TISI: 8 Q. Now, if you go to I'm sorry. 9 A. I did read this article, and I did see that recall now that I did see h name on there, but it did not interfere or cause me reflection to go talk to him about the about of medical evidence. 9 QUESTIONS BY MR. TISI: 10 did see that recall now that I did see h name on there, but it did not interfere or cause me reflection to go talk to him about name on the second of the body of medical evidence. 9 QUESTIONS BY MR. TISI: 9 Q. Now, if you go to I'm sorry. 10 did see that recall now that I did see h name on there, but it did not interfere or cause me reflection to go talk to him about name of the second of the body of medical evidence. 11 question of the body of medical evidence. 12 a consequence of the body of medical evidence. 13 QUESTIONS BY MR. TISI: 14 Q. Now, if you go to I'm sorry. 15 did see that recall now that I did see h name on there, but it did not interfere or cause me reflection to go talk to him about name of the second of the body of medical evidence. 14 QUESTIONS BY MR. TISI: 15 Q. Now, if you go to I'm sorry. 16 Q. Now if you go to I'm sorry. 17 Q. Well, actually, you mention a page 14 of your report. 18 Q. Now if you go to I'm sorry. 19 Q. Well actually is a page 14 of your report. 20 Q. Now if you go to I'm sorry. 21 Q. Now if you go to I'm sorry. 22 Q. Now if you go to I'm sorry. 23 Q. Now if you go to I'm sorry. 24 Q. Now if you go to I'm sorry. 25 Q. Now if you go to I'm sorry. 26 Q. Now if you go to I'm sorry. 27 Q. Now if you go to I'm sorry. 28 Q. Now if you go to I'm sorry. 29 Q. Now if you go to I'm sorry. 20 Q. Now if you
Q. Okay. And one of them we just talked about, it was Rosenblatt, and it was done here at Johns Hopkins, was it not? A. I don't specifically recall. Q. Well, actually, you mention that on page 14 of your report. You say, "Rosenblatt is a 1992 Teported hospital-based study evaluating Search, and I evaluated the body of medical evidence. QUESTIONS BY MR. TISI: Q. Now, if you go to I'm sorry. A. I did read this article, and I did see that recall now that I did see had name on there, but it did not interfere or cause me reflection to go talk to him about it because I was going to perform my ow
Q. Okay. And one of them we just talked about, it was Rosenblatt, and it was done here at Johns Hopkins, was it not? A. I don't specifically recall. Q. Well, actually, you mention that on page 14 of your report. You say, "Rosenblatt is a 1992 reported hospital-based study evaluating 14 fiber exposure generally with fiber defined 5 medical evidence. QUESTIONS BY MR. TISI: Q. Now, if you go to I'm sorry. A. I did read this article, and I did see that recall now that I did see had name on there, but it did not interfere or cause me reflection to go talk to him about the control of the control of the cause I was going to perform my ow independent review.
Q. Okay. And one of them we just talked about, it was Rosenblatt, and it was done here at Johns Hopkins, was it not? A. I don't specifically recall. Q. Well, actually, you mention that on page 14 of your report. You say, "Rosenblatt is a 1992 Teported hospital-based study evaluating fiber exposure generally with fiber defined for talked about, it was Rosenblatt is a 1992 talked to medical evidence. QUESTIONS BY MR. TISI: Q. Now, if you go to I'm sorry. A. I did read this article, and I did see that recall now that I did see had name on there, but it did not interfere or cause me reflection to go talk to him about independent review. 13 reported hospital-based study evaluating fiber exposure generally with fiber defined as asbestos talc or fiberglass, et cetera, D. Now, if you go to I'm sorry. A. I did read this article, and I did see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see that recall now that I did see had see had see that recall now that I did see had see had see had see that recall now that I did see had
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5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 10 that on page 14 of your report. Go to 11 page 14 of your report. 12 You say, "Rosenblatt is a 1992 13 reported hospital-based study evaluating 14 fiber exposure generally with fiber defined 15 as asbestos talc or fiberglass, et cetera, 16 done in Johns Hopkins Hospital." 17 Do you see that? 18 A. I did read this article, and I did see that recall now that I did see h name on there, but it did not interfere or cause me reflection to go talk to him about it because I was going to perform my ow independent review. 18 A. A little bit before my time, 19 1981 to 1985 19 A. I have Exhibit 37, yes.
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 10 that on page 14 of your report. Go to 11 page 14 of your report. 12 You say, "Rosenblatt is a 1992 13 reported hospital-based study evaluating 14 fiber exposure generally with fiber defined 15 as asbestos talc or fiberglass, et cetera, 16 done in Johns Hopkins Hospital." 17 Do you see that? 18 A. A little bit before my time, 19 1981 to 1985 20 Q. Right. 5 search, and I evaluated the body of medical evidence. QUESTIONS BY MR. TISI: Q. Now, if you go to I'm sorry. A. I did read this article, and I 10 did see that recall now that I did see h 11 name on there, but it did not interfere or cause me reflection to go talk to him about it because I was going to perform my over independent review. 15 So you had on the chart on your chart, exhibit number do you have your chart in front of you? Exhibit 37? 19 1981 to 1985 20 Q. Right. 20 Q. And I asked you before whether
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5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 10 that on page 14 of your report. Go to 11 page 14 of your report. 12 You say, "Rosenblatt is a 1992 13 reported hospital-based study evaluating 14 fiber exposure generally with fiber defined 15 as asbestos talc or fiberglass, et cetera, 16 done in Johns Hopkins Hospital." 17 Do you see that? 18 A. A little bit before my time, 19 1981 to 1985 20 Q. Right. 21 A at Johns Hopkins. 22 (Merlo Exhibit 40 marked for 2 Search, and I evaluated the body of medical evidence. 4 Machine Exhibit 40 marked for 5 search, and I evaluated the body of medical evidence. 4 Machine Evaluated the body of medical evidence. 4 QUESTIONS BY MR. TISI: 8 Q. Now, if you go to I'm sorry. 4 did see that recall now that I did see hat odd is evaluating and it because I was going to perform my over cause me reflection to go talk to him about it because I was going to perform my over independent review. 15 Q. Right. 16 So you had on the chart on your chart, exhibit number do you have your chart in front of you? Exhibit 37? 19 1981 to 1985 20 Q. Right. 21 A. I have Exhibit 37, yes. 22 Q. And I asked you before whether or not Rosenblatt was inconsistent with Caramer.
Q. Okay. And one of them we just talked about, it was Rosenblatt, and it was done here at Johns Hopkins, was it not? A. I don't specifically recall. Q. Well, actually, you mention that on page 14 of your report. Go to page 14 of your report. You say, "Rosenblatt is a 1992 reported hospital-based study evaluating fiber exposure generally with fiber defined as asbestos talc or fiberglass, et cetera, done in Johns Hopkins Hospital." A. A little bit before my time, 1981 to 1985 Q. Right. A at Johns Hopkins. Q. Okay. And I evaluated the body of medical evidence. QUESTIONS BY MR. TISI: Q. Now, if you go to I'm sorry. A. I did read this article, and I did see that recall now that I did see had name on there, but it did not interfere or cause me reflection to go talk to him about it because I was going to perform my ow independent review. Q. Right. So you had on the chart on your chart, exhibit number do you have your chart in front of you? Exhibit 37? A. I have Exhibit 37, yes. Q. And I asked you before whether or not Rosenblatt was inconsistent with (Merlo Exhibit 40 marked for identification.) Do you remember that?
5 Q. Okay. And one of them we just 6 talked about, it was Rosenblatt, and it was 7 done here at Johns Hopkins, was it not? 8 A. I don't specifically recall. 9 Q. Well, actually, you mention 10 that on page 14 of your report. Go to 11 page 14 of your report. 12 You say, "Rosenblatt is a 1992 13 reported hospital-based study evaluating 14 fiber exposure generally with fiber defined 15 as asbestos talc or fiberglass, et cetera, 16 done in Johns Hopkins Hospital." 17 Do you see that? 18 A. A little bit before my time, 19 1981 to 1985 20 Q. Right. 20 Q. Right. 21 A at Johns Hopkins. 22 (Merlo Exhibit 40 marked for) 25 Search, and I evaluated the body of medical evidence. 26 QUESTIONS BY MR. TISI: 27 Q. Now, if you go to I'm sorry. 28 Q. Now, if you go to I'm sorry. 40 did see that recall now that I did see h name on there, but it did not interfere or cause me reflection to go talk to him about it because I was going to perform my overall independent review. 41 So you had on the chart on your chart, exhibit number do you have your chart in front of you? Exhibit 37? 42 A. I have Exhibit 37, yes. 43 Q. And I asked you before whether or not Rosenblatt was inconsistent with Cramer.

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Christian Merlo, M.D., MPH

	Page 362		Page 364
1	Rosenblatt, again, are we talking about?	1	A an odds ratio of 1
2	Because there are two Rosenblatts.	2	Q. Okay.
3	Q. 1992.	3	A which is null.
4	A. Rosenblatt '92. I got it.	4	Q. And when you have talc, it's
5	Q. And Cramer 1982.	5	1.7, and when you have it directly applied to
6	A. Got it.	6	sanitary napkins, it was 4.8 do you see
7	Q. And I asked you the question,	7	that? which was statistically significant.
8	and you said that they were inconsistent.	8	A. Statistically significant with
9	Well, let's see what Dr. Szklo	9	a confidence interval of 1.3 to 17.8, a very,
10	says about this.	10	very wide range, and with also a proportion
11	Now, just to be clear,	11	of missing of cases and controls with
12	Rosenblatt is a hospital-based case-control	12	missing exposure.
13	study?	13	Q. But then he says something that
14	A. Rosenblatt was a hospital-based	14	addresses your point directly. It says,
15	case-control study, yes, that's correct.	15	"This is" and I'm going to read the whole
16	Q. And Cramer was a	16	paragraph.
17	population-based case-control study?	17	MS. MILLER: Tell us where you
18	A. Cramer 1982 was a	18	are.
19	population-based case-control study.	19	MR. TISI: Yeah. Second
20	Q. Now, first, if you go to the	20	column. It's beginning with "we
21	study itself, if you go to the third page,	21	found" on page 22.
22	page 22.	22	QUESTIONS BY MR. TISI:
23	A. Page 22, yes.	23	Q. "We found an increased relative
24	Q. It says actually, the second	24	risk, 4.8 for talc use on sanitary napkins,
25	column it says, "We found an increased	25	with a smaller effect for genital bath
	Page 363		Page 365
1	relative risk, 4.8, for talc use on sanitary	1	exposure, 1.7."
2	napkins, with a smaller effect on genital	2	And that 1.7 was not
3	bath talc exposure, relative risk 1.7."	3	statistically significant, correct?
4	Do you see that?	4	A. The 1.7 was not statistically
5	A. I do see that.	5	significant.
6	Q. Can you tell me why it is you	6	Q. Okay. He then says, "This is
7	didn't refer to the talc on sanitary napkins'	7	in accordance with the original finding of a
8	relative risk of 4.8, which was statistically	8	significant increased risk for perineal talc
9	significant?	9	exposure, relative risk 1.9, 95 percent
10	A. The point estimate that I took	10	confidence interval 12 to 20 by Chamon
	71. The point estimate that I took	1	confidence interval, 1.3 to 2.9, by Cramer,
11	out of that was for genital talc exposure,	11	et al."
12	out of that was for genital talc exposure, which is a relative risk of 1.70.	11 12	et al." And that's the Cramer article
	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc	11	et al." And that's the Cramer article from 1982, correct?
12 13 14	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos	11 12 13 14	et al." And that's the Cramer article from 1982, correct? A. That's what it says.
12 13 14 15	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc	11 12 13 14 15	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his
12 13 14 15 16	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos	11 12 13 14 15 16	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what
12 13 14 15 16 17	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you	11 12 13 14 15 16 17	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found.
12 13 14 15 16 17	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined	11 12 13 14 15 16 17 18	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found. A. But they're not.
12 13 14 15 16 17 18 19	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined A. Well, if you actually look at	11 12 13 14 15 16 17 18 19	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found.
12 13 14 15 16 17 18 19 20	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined A. Well, if you actually look at Table 3, the genital fiber use, yes/no, has	11 12 13 14 15 16 17 18 19 20	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found. A. But they're not. Q. Okay. But Dr. Szklo says that they are?
12 13 14 15 16 17 18 19 20 21	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined A. Well, if you actually look at Table 3, the genital fiber use, yes/no, has an odds ratio of 1.0, and the 95 percent	11 12 13 14 15 16 17 18 19 20 21	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found. A. But they're not. Q. Okay. But Dr. Szklo says that they are? MR. LOCKE: Objection.
12 13 14 15 16 17 18 19 20 21	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined A. Well, if you actually look at Table 3, the genital fiber use, yes/no, has an odds ratio of 1.0, and the 95 percent confidence interval is 0.2 to 4.0.	11 12 13 14 15 16 17 18 19 20 21 22	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found. A. But they're not. Q. Okay. But Dr. Szklo says that they are? MR. LOCKE: Objection. THE WITNESS: If we're talking
12 13 14 15 16 17 18 19 20 21 22 23	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined A. Well, if you actually look at Table 3, the genital fiber use, yes/no, has an odds ratio of 1.0, and the 95 percent confidence interval is 0.2 to 4.0. So if we're just talking about	11 12 13 14 15 16 17 18 19 20 21 22 23	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found. A. But they're not. Q. Okay. But Dr. Szklo says that they are? MR. LOCKE: Objection. THE WITNESS: If we're talking about consistency here between two
12 13 14 15 16 17 18 19 20 21	out of that was for genital talc exposure, which is a relative risk of 1.70. Q. All right. But genital talc exposure was defined as asbestos asbestos I'm sorry, it was actually fiber exposure. In your report on page 15, you talk about it as being it's defined A. Well, if you actually look at Table 3, the genital fiber use, yes/no, has an odds ratio of 1.0, and the 95 percent confidence interval is 0.2 to 4.0.	11 12 13 14 15 16 17 18 19 20 21 22	et al." And that's the Cramer article from 1982, correct? A. That's what it says. Q. Okay. And so he's saying his results are actually consistent with what Cramer found. A. But they're not. Q. Okay. But Dr. Szklo says that they are? MR. LOCKE: Objection. THE WITNESS: If we're talking

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	Page 366		Page 368
1	statistical significance, they're not	1	talc fiber exposure may be associated with an
2	consistent.	2	adverse event, but further study is needed."
3	QUESTIONS BY MR. TISI:	3	Do you see that?
4	Q. Okay. Because statistical	4	A. I do, and that's a very, very
5	significance is never the test for	5	general statement. There's a "suggest,"
6	consistency, is it, Doctor?	6	there's a "may," there's an "associated,"
7	And everybody from the	7	there's an "adverse effect." I don't even
8	epidemiology textbooks to the American	8	know what that means.
9	Statistical Association says, don't do what	9	Q. He never said it was
10	you did in this report, true?	10	inconsistent, did he? He said, in fact, his
11	MS. MILLER: Objection.	11	study this study is in accordance with the
12	MR. LOCKE: Objection.	12	original study.
13	THE WITNESS: I don't even know	13	MS. MILLER: Objection.
14	what that means, and I	14	THE WITNESS: This statement
15	QUESTIONS BY MR. TISI:	15	right here is not talking about is
16	Q. Okay.	16	not talking about consistency, this
17	A don't know what you mean by	17	results of our study. I don't know
18	everyone and	18	why that has anything to do with
19	Q. Well, we're going to talk	19	consistency.
20	A who those different groups	20	QUESTIONS BY MR. TISI:
21	are, so you'd have be very specific.	21	Q. Okay. Well, let's go to the
22	Q. We're going to be	22	paragraph that does.
23	A. It's a very big generalization.	23	It says above, "We found an
24	Q. Well, you made a lot of	24	increased, 4.8 for talc use on sanitary
25	generalizations about what the epidemiology	25	napkins, with a smaller effect for genital
			Page 369
_			
1	community thinks.	1	bath talc exposure, relative risk, 1.7. This
2	MR. LOCKE: Objection.	2	is in accordance with the original finding of
3	QUESTIONS BY MR. TISI:	3	a significant increased risk for perineal
4	Q. So I'm talking to you about	4	talc exposure by Cramer, et al. Preliminary
5	epidemiology textbooks. The American	5	findings from a Chinese talc study also
6	Statistical Association says, you don't do	6	suggest the application of talc-containing
7	what you did here.	7	dusting powder and the risk of epithelial
8	MS. MILLER: Objection.	8	
	AD LOCKE OI: 4		ovarian cancer relative risk to be 1.9, with
9	MR. LOCKE: Objection.	9	a confidence interval of 1.1 to 13.8," which
10	QUESTIONS BY MR. TISI:	10	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A
10 11	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says	10 11	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc
10 11 12	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that	10 11 12	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or
10 11 12 13	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated	10 11 12 13	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge,
10 11 12 13 14	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is	10 11 12 13 14	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not
10 11 12 13 14 15	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is	10 11 12 13 14 15	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et
10 11 12 13 14 15	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is causal in nature from 1990 this 1992	10 11 12 13 14 15 16	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et al., detected an increased relative risk 1.4,
10 11 12 13 14 15 16 17	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is causal in nature from 1990 this 1992 study."	10 11 12 13 14 15 16 17	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et al., detected an increased relative risk 1.4, P value greater than .05, for perineal
10 11 12 13 14 15 16 17	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is causal in nature from 1990 this 1992 study." Correct?	10 11 12 13 14 15 16 17 18	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et al., detected an increased relative risk 1.4, P value greater than .05, for perineal exposure. In a study of borderline ovarian
10 11 12 13 14 15 16 17 18	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is causal in nature from 1990 this 1992 study." Correct? A. Where are you reading that?	10 11 12 13 14 15 16 17 18	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et al., detected an increased relative risk 1.4, P value greater than .05, for perineal exposure. In a study of borderline ovarian tumors, the increased risk was also observed
10 11 12 13 14 15 16 17 18 19 20	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is causal in nature from 1990 this 1992 study." Correct? A. Where are you reading that? Q. The paragraph below. It says,	10 11 12 13 14 15 16 17 18 19 20	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital talc exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et al., detected an increased relative risk 1.4, P value greater than .05, for perineal exposure. In a study of borderline ovarian tumors, the increased risk was also observed with talc exposure use on sanitary napkins,
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10 11 12 13 14 15 16 17 18 19 20 21 22 23	QUESTIONS BY MR. TISI: Q. Let me ask you this. He says below, "The results of our study suggest that genital talc fiber exposure may be associated with an adverse event, but further study is needed to determine if this relationship is causal in nature from 1990 this 1992 study." Correct? A. Where are you reading that? Q. The paragraph below. It says, "The results of our study." Two paragraphs down. A. Okay.	10 11 12 13 14 15 16 17 18 19 20 21 22 23	a confidence interval of 1.1 to 13.8," which is the Chen study on your list. "A nonsignificant effect for genital tale exposure on genital sanitary napkins or underwear was detected in a study by Hartge, relative risk 2.5, which was not statistically significant. Whittemore, et al., detected an increased relative risk 1.4, P value greater than .05, for perineal exposure. In a study of borderline ovarian tumors, the increased risk was also observed with tale exposure use on sanitary napkins, relative risk 1.9 with a confidence interval of .9 to 6.9."

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	Page 270		Dago 272
	Page 370	_	Page 372
1	risk was observed in a nonstatistically	1	statement. It says "suggests," "may,"
2	significant study.	2	"associated adverse effect." I don't even
3	MS. MILLER: Objection.	3	know what the adverse effect he's talking
4	MR. LOCKE: Objection.	4	about is.
5	THE WITNESS: This paragraph	5	Q. Well, how about the last
6	does not say that there's an increased	6	let's talk about the last paragraph.
7	risk in all these studies.	7	"In summary"
8	This paragraph says this	8	MS. MILLER: The last paragraph
9	paragraph highlights that some studies	9	of what
10	are statistically significant and	10	MR. TISI: Of the study.
11	others are nonstatistically	11	MS. MILLER: Oh, okay.
12	significant. And that is not	12	QUESTIONS BY MR. TISI:
13	consistent.	13	Q. "In summary, our study shows
14	QUESTIONS BY MR. TISI:	14	that the development of ovarian cancer may
15	Q. They say these are these	15	be may be associated with genital fiber
16	studies are in accordance, and you're saying	16	exposure, especially talc on sanitary
17	that that's inconsistent?	17	napkins."
18	MS. MILLER: Objection.	18	Do you see that?
19	THE WITNESS: That's not what	19	A. I do.
20	it says.	20	And then it says, "Given its
21	QUESTIONS BY MR. TISI:	21	small sample size and the potential selection
22	Q. It says this study is in	22	bias stemming from including patients in only
23	accordance with the original finding of a	23	one hospital, further research needs to be
24	significant a significant increased risk	24	performed in order to confirm our findings."
25	for perineal talc exposure, true? Does it	25	And that is the importance of
	Page 371		Page 373
			rage 3/3
1	not say that?	1	
1 2		1 2	consistency. And that first paragraph that
	not say that? A. And what that sentence is		consistency. And that first paragraph that you highlighted demonstrates the lack of
2	not say that? A. And what that sentence is referring to is the sentence before that,	2	consistency. And that first paragraph that you highlighted demonstrates the lack of consistency.
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2 3 4	not say that? A. And what that sentence is referring to is the sentence before that,	2 3 4	consistency. And that first paragraph that you highlighted demonstrates the lack of consistency. Q. Doctor, he's saying that this study is further support of the hypothesis,
2 3 4 5	not say that? A. And what that sentence is referring to is the sentence before that, which is talking about an increased relative risk for talc use on sanitary napkins, and that's it. It's not in accordance	2 3 4 5	consistency. And that first paragraph that you highlighted demonstrates the lack of consistency. Q. Doctor, he's saying that this study is further support of the hypothesis, additional study needs to be done, but that
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Christian Merlo, M.D., MPH

	Page 374		Page 376
1	And then he also says and	1	A. Can you just show me? I'm
2	I'll say this again "Given its	2	sorry, I just didn't know where that was.
3	small sample size and the potential	3	Okay.
4	for selection bias"	4	Q. Does it not say, "The result of
5	QUESTIONS BY MR. TISI:	5	the present study do not support the
6	Q. And he doesn't say this is	6	association between talc and ovarian cancer
7	inconsistent, does he? He doesn't say, our	7	but given the overlapping range of the
8	•	8	confidence intervals, they are not
	studies are opposite to. He doesn't say, our		· · · · · · · · · · · · · · · · · · ·
9	studies are inconsistent with, does he?	9	incompatible"?
10	MR. LOCKE: Objection.	10	MR. LOCKE: Objection.
11	MS. MILLER: Objection.	11	THE WITNESS: I do see that
12	THE WITNESS: He doesn't say	12	sentence, but I'm just trying to
13	they're inconsistent. He doesn't say	13	figure out where that that that is
14	either. But they are inconsistent	14	reference to.
15	with each other, because some are	15	QUESTIONS BY MR. TISI:
16	showing a statistical significance and	16	Q. Okay. Was it important to you
17	some are not.	17	to figure out what that doctor meant by that?
18	(Merlo Exhibit 41 marked for	18	The overlapping confidence intervals is
19	identification.)	19	consistency, is it not?
20	QUESTIONS BY MR. TISI:	20	MR. LOCKE: Objection.
21	Q. Let's go to another one.	21	THE WITNESS: I don't know what
22	A. They're inconsistent.	22	you mean by overlapping confidence
23	Q. Let's go to another one.	23	intervals.
24	There's another one that you refer to. It's	24	QUESTIONS BY MR. TISI:
25	-	25	
23	the Tzonou study from Greece, the Tzonou	25	Q. If confidence intervals overlap
	Page 375		Page 377
1	Page 375 study. I'm going to show you this one. This	1	Page 377 between studies and let's say at 1.2,
1 2		1 2	
	study. I'm going to show you this one. This		between studies and let's say at 1.2,
2	study. I'm going to show you this one. This is one you also read. And this is another	2	between studies and let's say at 1.2, those are consistent. The confidence intervals are consistent, correct?
2	study. I'm going to show you this one. This is one you also read. And this is another hospital-based study, correct?	2 3 4	between studies and let's say at 1.2, those are consistent. The confidence intervals are consistent, correct? MS. MILLER: Objection.
2 3 4 5	study. I'm going to show you this one. This is one you also read. And this is another hospital-based study, correct? And this is the one on your	2 3 4 5	between studies and let's say at 1.2, those are consistent. The confidence intervals are consistent, correct? MS. MILLER: Objection. THE WITNESS: It depends. It
2 3 4 5 6	study. I'm going to show you this one. This is one you also read. And this is another hospital-based study, correct? And this is the one on your chart	2 3 4 5 6	between studies and let's say at 1.2, those are consistent. The confidence intervals are consistent, correct? MS. MILLER: Objection. THE WITNESS: It depends. It depends if you have three, eight, ten
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İ	Page 378		Page 380
1	overlap.	1	significant for the hospital-based studies,
2	Because the two studies, if	2	correct?
3	we're talking about a consistent set, the	3	A. For that's what that
4	studies would be statistically significant,	4	suggests for those six studies.
5	and that would point towards consistency.	5	Q. Now, Doctor, just while we're
6	Q. I'm going to like to show	6	at it here, and we're going to talk about
7	you have you seen a meta-analysis of the	7	the by the way, you didn't reference that
8	hospital-based studies at all?	8	in your report, did you, that there was a
9	A. I did review some	9	meta-analysis of the hospital-based studies
10	meta-analyses.	10	that showed a statistically significant
11	Q. Did you review the	11	increased risk?
12	meta-analyses of the hospital-based studies?	12	MR. LOCKE: Objection.
13	A. I would have to look back at my	13	THE WITNESS: Can you ask that
14	report and see	14	one more time?
15	Q. Let me see if I can show you	15	QUESTIONS BY MR. TISI:
16	the Berge study.	16	Q. Yes.
17	A which which had the	17	You didn't note that there was
18	hospital-based studies.	18	a meta-analysis of the hospital-based studies
19	Q. Let me show you the Berge	19	in the Berge study that showed a
20	study, which you've actually seen, correct?	20	statistically significant increased risk, did
21	MS. MILLER: Can you show us,	21	you?
22	too?	22	MR. LOCKE: Objection.
23	THE WITNESS: Okay.	23	THE WITNESS: In the
24	(Merlo Exhibit 48 marked for	24	meta-analysis done by Berge, I did not
25	identification.)	25	reference that hospital-based
	Page 379		Page 381
1	QUESTIONS BY MR. TISI:	1	case-control study table right there.
2	Q. If you go to the table on	2	QUESTIONS BY MR. TISI:
3	page 6 of 15.	3	Q. And that showed an increased
4	Do you see they have	4	risk?
5	case-control studies and they have		
		5	A. I would have to go through and
6	hospital-based control studies?	6	look at the papers that were pulled for that
7	hospital-based control studies? Do you see that?	6 7	look at the papers that were pulled for that because I have seven on my list, and there's
7 8	hospital-based control studies? Do you see that? A. I do see that.	6 7 8	look at the papers that were pulled for that because I have seven on my list, and there's six there.
7 8 9	hospital-based control studies? Do you see that? A. I do see that. Q. Okay. See the relative risk of	6 7 8 9	look at the papers that were pulled for that because I have seven on my list, and there's six there. Q. Okay. But, of course, this
7 8 9 10	hospital-based control studies? Do you see that? A. I do see that. Q. Okay. See the relative risk of 1.34?	6 7 8 9 10	look at the papers that were pulled for that because I have seven on my list, and there's six there. Q. Okay. But, of course, this study was published and yours wasn't. Your
7 8 9 10 11	hospital-based control studies? Do you see that? A. I do see that. Q. Okay. See the relative risk of 1.34? A. I do see 1.34.	6 7 8 9 10 11	look at the papers that were pulled for that because I have seven on my list, and there's six there. Q. Okay. But, of course, this study was published and yours wasn't. Your report has not been?
7 8 9 10 11	hospital-based control studies? Do you see that? A. I do see that. Q. Okay. See the relative risk of 1.34? A. I do see 1.34. Q. See the confidence interval	6 7 8 9 10 11 12	look at the papers that were pulled for that because I have seven on my list, and there's six there. Q. Okay. But, of course, this study was published and yours wasn't. Your report has not been? MR. LOCKE: Objection.
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Christian Merlo, M.D., MPH

	Page 382		Page 384
1	indicated that before. When you combine	1	THE WITNESS: And I would have
2	· · · · · · · · · · · · · · · · · · ·	2	
	them, you increase the power, right?	l	to go through and see why there's only six there and see what the measure of
3	MR. LOCKE: Objection.	3	
4	MS. MILLER: Objection.	4	risk was and whether or not that was
5	THE WITNESS: You can	5	appropriate to even combine those.
6	QUESTIONS BY MR. TISI:	6	QUESTIONS BY MR. TISI:
7	Q. Okay.	7	Q. Okay. But you didn't do that,
8	A if the studies looked at the	8	and you didn't address this in your report?
9	same thing.	9	MR. LOCKE: Objection.
10	Q. Right.	10	THE WITNESS: So in looking at
11	A. If they looked at the same	11	this table now, I'm looking at the
12	measure of exposure.	12	hospital-based case-control studies,
13	Q. So when they combine them, it	13	and there's six of them, and the
14	increased the power. They show a	14	relative risk is as you say. But
15	statistically significant results in the	15	there is significant heterogeneity
16	Berge study, correct?	16	within the studies, and so it may not
17	MS. MILLER: Objection. He	17	be appropriate to lump all of those
18	specifically said something different.	18	together.
19	MR. TISI: You get to cross.	19	And I believe that the authors
20	THE WITNESS: If, in fact, the	20	concluded that because of
21	studies are measuring the same aspect	21	heterogeneity, it did not support a
22	<u> </u>	22	causal interpretation of the
23	of the exposure, which there are	23	association.
	varying measures of exposure with	24	
24	in all of the case-control studies, if		QUESTIONS BY MR. TISI:
25	they're measuring the same thing, then	25	Q. Doctor, let me ask you this:
	Page 383		Page 385
1	it does add it does add more study	1	It also says at the top and if you look at
2	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
	subjects, which increases it does	2	the abstract actually, the and I'll
3	add more study subjects.	2 3	the abstract actually, the and I'll represent to you that this study was actually
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3	add more study subjects. QUESTIONS BY MR. TISI:	3	represent to you that this study was actually amended. The original study was amended a
3 4	add more study subjects. QUESTIONS BY MR. TISI: Q. And it does increase the power?	3 4	represent to you that this study was actually amended. The original study was amended a year later, so this is the amended study.
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1	limited to serous carcinoma and suggests	1	QUESTIONS BY MR. TISI:
2	with the suggestion of dose response."	2	Q. The question is whether you did
3	Did I read that correctly?	3	or you didn't.
4	A. You read that correctly.	4	MS. MILLER: Please don't
5	Q. You don't note that in your	5	interrupt the witness.
6	report, do you?	6	MR. TISI: No, he needs to
7	MR. LOCKE: Objection.	7	answer my questions.
8	THE WITNESS: But the authors	8	MS. MILLER: He's answering
9	also say in their concluding sentence,	9	your questions as fully as he can
10	"Several aspects of our study,	10	MR. TISI: My question is, I
11	including heterogeneity of results	11	know you
12	between case-control and cohort	12	MS. MILLER: And now you're
13	studies, however, do not support a	13	interrupting me.
14	causal interpretation of the	14	MR. TISI: I know you well,
15	association."	15	because you're coaching.
16	QUESTIONS BY MR. TISI:	16	QUESTIONS BY MR. TISI:
17	Q. I understand, Doctor.	17	Q. Doctor, I know you discussed
18	I asked you whether I read the	18	the
19	prior sentence correctly about a dose	19	MR. TISI: Your laughing is
20	response, and you didn't address that in your	20	really, really overwhelming.
21	report, did you not?	21	MS. MILLER: You just accused
22	MR. LOCKE: Objection.	22	me of coaching the witness for saying
23	MS. MILLER: Objection.	23	"please don't interrupt him."
24	THE WITNESS: Well, let's look	24	MR. TISI: You are totally
25	at dose response then.	25	coaching the witness. Don't interrupt
23	at dose response them.		codening the witness. Don't interrupt
	Page 387		Page 389
1	Page 387 QUESTIONS BY MR. TISI:	1	Page 389 him. He was saying X, Y and Z. It's
1 2		1 2	
	QUESTIONS BY MR. TISI:	1	him. He was saying X, Y and Z. It's
2	QUESTIONS BY MR. TISI: Q. Let's look at yeah. You	2	him. He was saying X, Y and Z. It's coaching.
2 3	QUESTIONS BY MR. TISI: Q. Let's look at yeah. You didn't address it. I looked for it. I	2 3	him. He was saying X, Y and Z. It's coaching. MS. MILLER: Excuse me? I
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	Page 390		Page 392
1	that.	1	it'll be.
2	Have you actually seen this?	2	THE WITNESS: I don't know how
3	This because there are two Berge	3	you can say that this that I
4	publications. There was the original and	4	didn't that I looked at this one or
5	there was an amended one. This is the	5	the other one.
6	amended one.	6	MR. TISI: It'll be what it'll
7	Did counsel provide you with	7	be. I will compare the citation, and
8	the amended one?	8	it'll either be the one you looked at
9	A. Counsel didn't provide me with	9	or not. Let's move on.
10	any articles.	10	THE WITNESS: Well, we can
11	Q. Okay.	11	compare it right now.
12	A. I looked them up myself.	12	QUESTIONS BY MR. TISI:
13	Q. Did you find this one?	13	Q. I want to go Doctor
14	A. Again, I don't have these	14	A. I'm going to look to compare it
15	memorized, so I don't know which is the first	15	right now.
16	one or which is the second one.	16	Q. Well, then you can do it off
17	Q. This is the second one.	17	the record. I'm not doing it on the record.
18	MS. MILLER: Is there a	18	A. Well, then you can't say
19	question pending? I'm so sorry, I	19	that that you can just assume that
20	lost it.	20	Q. I'm not
21	MR. TISI: Yes.	21	A I saw the first one and
22	QUESTIONS BY MR. TISI:	22	didn't see the second one.
23	Q. Did you see this have you	23	Q. Doctor, I'll look it up. You
24	will you see the second the second Berge	24	have the citation in the back of your
25	study?	25	references. I'll just look it up.
23	study:	25	references. Th just look it up.
		T .	
	Page 391		Page 393
1	Page 391 A. I may have had the second one	1	Page 393 If you go to your chart here,
1 2		1 2	
	A. I may have had the second one		If you go to your chart here,
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2 3	A. I may have had the second one or the first one. I don't know. Q. Okay.	2 3	If you go to your chart here, exhibit that we marked as Exhibit Number 37 it's right in front of you,
2 3 4	 A. I may have had the second one or the first one. I don't know. Q. Okay. A. Because it's not 	2 3 4	If you go to your chart here, exhibit that we marked as Exhibit Number 37 it's right in front of you, sir would you agree with me that of all
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99 (Pages 390 to 393)

	Page 394		Page 396
1	Q. Greater than 1.	1	every one, but they most of them do.
2	Would you look at the	2	In fact, even if you look at
3	confidence interval of the ones that have a	3	the cohort studies, with the exception of
4	greater a point estimate greater than 1?	4	Gonzalez, they include 1.25.
5	Would you agree that the	5	A. Okay.
6	confidence intervals overlap for every one of	6	Q. Is that true?
7	those studies at 1.2?	7	A. It looks like it, based on this
8	MS. MILLER: Objection.	8	chart.
9	THE WITNESS: I would have to	9	Q. Now, I provided Dr. Ballman
10	use a calculator to do that.	10	have you seen Dr. Ballman's exhibits?
11	QUESTIONS BY MR. TISI:	11	A. Yes.
12	Q. Well, all you have to do is	12	Q. Okay. I provided her with a
13	look at the all you have to look at is the	13	copy of your chart, which I will have marked
14	confidence interval, right? The confidence	14	as Exhibit 42. Since you had time to look at
15	interval? If it overlaps 1.2, then it's	15	it, I'm going to ask you whether you agree
16	then they're overlapping, right?	16	with her or not.
17	A. It's not how we use a	17	(Merlo Exhibit 42 marked for
18	confidence interval, but if that's what if	18	identification.)
19	that's the number that you want to say, but	19	QUESTIONS BY MR. TISI:
20	that's not how	20	Q. I asked her to highlight, to
21	Q. They're all every single one	21	circle, every I asked her to highlight
22	of these confidence intervals, with the	22	every in red, in pink, every result that
23	exception of the three that I just talked	23	was greater than 1.0, and she did.
24	about, overlap at 1.2.	24	Do you see that?
25	A. For the purpose of this	25	MS. MILLER: Objection.
	Page 395		Page 397
1	exercise, looking down that column,	1	
1 2	exercise, looking down that column, 95 percent confidence interval, and you want	1 2	MR. LOCKE: Objection.
	95 percent confidence interval, and you want		MR. LOCKE: Objection. THE WITNESS: What you're
2		2	MR. LOCKE: Objection.
2 3	95 percent confidence interval, and you want me to say whether or not there's overlap at	2 3	MR. LOCKE: Objection. THE WITNESS: What you're what did she highlight?
2 3 4	95 percent confidence interval, and you want me to say whether or not there's overlap at 1.2?	2 3 4	MR. LOCKE: Objection. THE WITNESS: What you're what did she highlight? QUESTIONS BY MR. TISI:
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2 3 4 5 6	95 percent confidence interval, and you want me to say whether or not there's overlap at 1.2? Q. Uh-huh. A. And what was the other	2 3 4 5 6	MR. LOCKE: Objection. THE WITNESS: What you're what did she highlight? QUESTIONS BY MR. TISI: Q. Every result that had a risk ratio greater than 1.0, and she highlighted
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	95 percent confidence interval, and you want me to say whether or not there's overlap at 1.2? Q. Uh-huh. A. And what was the other qualification? Q. None. The vast majority of these confidence intervals overlap at 1.2, true? A. 1.2 is included in many of these. Q. The vast majority in fact every one, with the exception of three that I just mentioned? A. Well, Cramer 1982 is 1.27. Wu 2015 is 1.27. Q. Right. A. That doesn't include 1.2. Q. Okay. Okay. 1.2 or above. A. Okay. Q. Is that true? A. That is true for that column.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. LOCKE: Objection. THE WITNESS: What you're what did she highlight? QUESTIONS BY MR. TISI: Q. Every result that had a risk ratio greater than 1.0, and she highlighted that in pink. A. And you're talking about the point estimate? Q. The point estimate, correct. MR. LOCKE: I'm going to object for the same reasons we did during her deposition. MR. TISI: Okay. QUESTIONS BY MR. TISI: Q. Do you see that? A. That's what it looks like. Q. Okay. And she circled every point estimate she circled every confidence interval that included 1.2, which is a 20 percent increase, correct? MR. LOCKE: Same objection. MS. MILLER: Objection.
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100 (Pages 394 to 397)

	Page 398		Page 400
1	disagree with that?	1	she appears to have done what you've
2	MS. MILLER: I'm going to	2	asked her to do
3	object. I don't understand how you	3	QUESTIONS BY MR. TISI:
4	disagree with circling, and also	4	Q. Okay.
5	QUESTIONS BY MR. TISI:	5	A and circled.
6	Q. Do you	6	Q. And if asked to do the same
7	MS. MILLER: this is kind of	7	thing, you would have done the same circling
8	illegible.	8	and the same highlighting?
9	QUESTIONS BY MR. TISI:	9	MR. LOCKE: Objection.
10	Q. Do you agree	10	THE WITNESS: If you asked me
11	MR. TISI: It's very legible to	11	the same questions, it appears that
12	me, Counsel, but you can coach your	12	she followed your directions
13	witness if you'd like. I can read it	13	appropriately.
14	very carefully. Very well.	14	QUESTIONS BY MR. TISI:
15	THE WITNESS: I see circles in	15	
16	the 95 percent confidence interval,	16	Q. Okay. Now, I'm going to show
	± ,		you what a textbook. It's already been
17	and if you're asking if those circles	17	marked as Exhibit Number 32.
18	include a range that includes 1.2 in	18	Can you pull that out, please?
19	that 95 percent confidence interval,	19	That's the Rothman textbook.
20	that's what it appears to show.	20	A. 32?
21	QUESTIONS BY MR. TISI:	21	Q. Uh-huh. I have another copy in
22	Q. And then I asked her to	22	case anybody wants it because I don't really
23	highlight in blue those that included 1.25,	23	need paper. You can have it if you'd like.
24	and she did that as well.	24	MS. MILLER: Okay. Instead of
25	Do you see that?	25	making us go through our pile.
	1 436 377		
-1	MD LOCKE Objection	1	
1	MR. LOCKE: Objection.	1	Thanks.
2	MS. MILLER: Objection.	2	Thanks. MR. TISI: Yeah.
2	MS. MILLER: Objection. THE WITNESS: The blue is a	2 3	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI:
2 3 4	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out.	2 3 4	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you?
2 3 4 5	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple.	2 3 4 5	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology.
2 3 4 5 6	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI:	2 3 4 5 6	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the
2 3 4 5 6 7	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's	2 3 4 5 6 7	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the
2 3 4 5 6 7 8	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker.	2 3 4 5 6 7 8	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26
2 3 4 5 6 7 8	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question?	2 3 4 5 6 7 8	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30.
2 3 4 5 6 7 8 9	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that	2 3 4 5 6 7 8 9	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay.
2 3 4 5 6 7 8 9 10	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval.	2 3 4 5 6 7 8 9 10	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read
2 3 4 5 6 7 8 9 10 11	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise	2 3 4 5 6 7 8 9 10 11	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with
2 3 4 5 6 7 8 9 10 11 12	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that	2 3 4 5 6 7 8 9 10 11 12	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not.
2 3 4 5 6 7 8 9 10 11 12 13	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence	2 3 4 5 6 7 8 9 10 11 12 13	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with
2 3 4 5 6 7 8 9 10 11 12 13 14 15	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval. Q. And so in terms of we can	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says A. I'm sorry, where are you
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval. Q. And so in terms of we can disagree with the significance of that, you	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says A. I'm sorry, where are you reading from?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval. Q. And so in terms of we can disagree with the significance of that, you agree that with the interpretation that she had about risk ratios greater than 1, the ones that are greater than 1.2 or they included 1.2 and the ones that included 1.25?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says A. I'm sorry, where are you reading from? Q. The second paragraph under Consistency. This is the consistency prong. "One mistake in implementing the consistency"
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval. Q. And so in terms of we can disagree with the significance of that, you agree that with the interpretation that she had about risk ratios greater than 1, the ones that are greater than 1.2 or they included 1.2 and the ones that included 1.25? MS. MILLER: Objection.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says A. I'm sorry, where are you reading from? Q. The second paragraph under Consistency. This is the consistency prong. "One mistake in implementing the consistency" A. But where is this in the paper?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval. Q. And so in terms of we can disagree with the significance of that, you agree that with the interpretation that she had about risk ratios greater than 1, the ones that are greater than 1.2 or they included 1.2 and the ones that included 1.25? MS. MILLER: Objection. MR. LOCKE: Objection.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says A. I'm sorry, where are you reading from? Q. The second paragraph under Consistency. This is the consistency prong. "One mistake in implementing the consistency" A. But where is this in the paper? I'm not seeing it. I see the second
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MS. MILLER: Objection. THE WITNESS: The blue is a little bit difficult to make out. There's purple. QUESTIONS BY MR. TISI: Q. Well, purple is the it's blue and red. We didn't use a purple marker. A. And so what was the question? Q. Those were the ones that included 1.25 in the confidence interval. A. So it looks like this exercise does have a blue mark to those values that would include a 1.25 within the confidence interval. Q. And so in terms of we can disagree with the significance of that, you agree that with the interpretation that she had about risk ratios greater than 1, the ones that are greater than 1.2 or they included 1.2 and the ones that included 1.25? MS. MILLER: Objection.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Thanks. MR. TISI: Yeah. QUESTIONS BY MR. TISI: Q. Do you have it in front of you? A. I have Modern Epidemiology. Q. Okay. If you look at the consistency prong we've looked at the strength prong before and it's on page 26 of 30. A. Okay. Q. Okay. And I'm going to read the paragraph and see whether you agree with it or not. In this textbook Dr. Rothman says A. I'm sorry, where are you reading from? Q. The second paragraph under Consistency. This is the consistency prong. "One mistake in implementing the consistency" A. But where is this in the paper?

101 (Pages 398 to 401)

	Page 402		Page 404
1	starts with "one mistake."	1	this instance where there are several
2	Do you see it?	2	different kinds of study designs there's
3	A. I see it now.	3	consistency within study results. There's
4	Q. Okay. "One mistake in	4	consistency within hospital-based
5	implementing the consistency criterion is so	5	case-controls. There's consistency in
6	common it deserves special mention. It is	6	nonsignificant nonsignificant results.
7	sometimes claimed that a literature or set of	7	There's inconsistency in
8	results is inconsistent simply because some	8	population-based case-control studies where
9	results are statistically significant and	9	some showed statistical significance, some
10	some are not. This sort of evaluation is	10	don't. There's also consistency within
11	completely fallacious, even if one accepts	11	cohort studies where there's a consistent
12	the use of statistical the use of	12	nonstatistically significance.
13	significance testing methods."	13	So there's consistency and
14	Did I read that correctly?	14	there's inconsistency. And just to divide it
15	MR. LOCKE: Objection.	15	up simply the way that Dr. Rothman says here
16	MS. MILLER: Objection.	16	is too general because there are very
17	MR. LOCKE: And to the	17	specific instances that need to be considered
18	characterization of this as a	18	before just agreeing or disagreeing to that
19	textbook.	19	statement.
20	THE WITNESS: I see that	20	(Merlo Exhibit 43 marked for
21	statement on this page.	21	identification.)
22	QUESTIONS BY MR. TISI:	22	QUESTIONS BY MR. TISI:
23	Q. You can pull the textbook out	23	Q. Okay. Let me look at Dr
24	so I don't have to, like, deal with that kind	24	what Dr. Oleckno says about it. Here's
25	of objection.	25	Exhibit Number 43, which is also from the
	Page 403		Page 405
1	MR. LOCKE: Well, it's a	1	Oleckno textbook that you referred to in your
2	portion of a book.	2	report.
3	MR. TISI: Okay. Okay, Tom.	3	And in the chapter
4	QUESTIONS BY MR. TISI:	4	MS. MILLER: This appears to be
5	Q. The chapter in a textbook.	5	pages 131, 173 and 174
6	That's exactly what you did, right?	6	MR. TISI: Correct.
7	A. I'm sorry?	7	MS. MILLER: so I'm going to
8	Q. Do you agree with that	8	have the same objection.
9	statement?	9	MR. TISI: Fine.
10	A. Do I agree with the statement?	10	MS. MILLER: This just pulls
11	Q. "One mistake in implementing	11	things out of context rather than
12	the consistency criterion is so common that	12	including an inherent thing. I don't
13	it deserves special attention. It is	13	know
14	sometimes claimed that a literature or set of	14	MR. TISI: I know you don't
15	results is inconsistent simply because some	15	know.
16	results are statistically significant and	16	MS. MILLER: what's between
17	some are not. That sort of evaluation is	17	pages 131
18	completely fallacious, even if one accepts	18	MR. TISI: I know you don't
19	the use of significance testing methods."	19	know, Counsel.
20	Did I read that correctly?	20	MS. MILLER: and 173
21	A. Yes, you did.	21 22	MR. TISI: Objection.
22 23	Q. Do you agree with that?	22	MS. MILLER: and what occurs
23 24	A. I would say it depends, and	24	after page 175. MR. TISI: "Objection" is fine.
25	I'll tell you why. Because it's a very general statement. And if we're talking in	25	THE WITNESS: Can I take a
25	Seneral statement. This is we're talking in	"	THE WITHLESS. Call I land a

102 (Pages 402 to 405)

	Page 406		Page 408
1	favor?	1	A. I do see where that's said.
2	MR. TISI: Yeah.	2	Q. And that's correct, right?
3	THE WITNESS: Can we take a	3	A. That's correct.
4	little I just need to use the	4	Q. All right. "Conversely, P
5	restroom.	5	greater than .05 indicates that the observed
6	MR. TISI: Absolutely.	6	measure of association is probably due to
7	THE WITNESS: Would that be	7	chance alone and hence not statistically
8	okay?	8	significant."
9	MR. TISI: Absolutely.	9	Correct? Do you see that?
10	THE WITNESS: All right.	10	A. I do see that, correct.
11	Thanks.	11	Q. Okay. "Statistical
12	VIDEOGRAPHER: The time is	12	significance does not indicate the strength
13	4:20 p.m., and we're going off the	13	of an association, nor does it reveal its
14	record.	14	practical significance. For a number of
15	(Off the record at 4:20 p.m.)	15	reasons, most epidemiologists prefer to use
16	VIDEOGRAPHER: The time is	16	confidence intervals rather than
17	4:32 p.m., and we are back on the	17	significant significance testing. For one
18	record.	18	thing, these provide more information than
19	QUESTIONS BY MR. TISI:	19	significance testing."
20	Q. If you go to page 174 of	20	Do you see that?
21	Exhibit 43, the Oleckno textbook, there's a	21	A. I do.
22	bullet point talking about statistical	22	Q. And do you agree with that?
23	significance. I gave it to you as the last	23	A. So there's a lot of statements
24	document we gave you.	24	there.
25	A. Sorry, it was not in front of	25	Q. The last sentence, the last two
	Page 407		
	rage 107		Page 409
1	me. I got it.	1	sentences I'm talking about.
2	me. I got it. Q. Okay. Go to page 174.	1 2	sentences I'm talking about. A. "For a number of reasons, most
	me. I got it. Q. Okay. Go to page 174. A. This is a four-page summary of		sentences I'm talking about. A. "For a number of reasons, most epidemiologists prefer to use confidence
2 3 4	me. I got it. Q. Okay. Go to page 174. A. This is a four-page summary of the textbook?	2	sentences I'm talking about. A. "For a number of reasons, most epidemiologists prefer to use confidence intervals rather than significance testing.
2 3 4 5	me. I got it. Q. Okay. Go to page 174. A. This is a four-page summary of the textbook? Q. No, it's not a four-page	2	sentences I'm talking about. A. "For a number of reasons, most epidemiologists prefer to use confidence intervals rather than significance testing. For one thing, these provide more information
2 3 4 5 6	me. I got it. Q. Okay. Go to page 174. A. This is a four-page summary of the textbook? Q. No, it's not a four-page summary of the textbook, Doctor. It is a	2 3 4 5 6	sentences I'm talking about. A. "For a number of reasons, most epidemiologists prefer to use confidence intervals rather than significance testing. For one thing, these provide more information than statistic significant testing."
2 3 4 5 6 7	me. I got it. Q. Okay. Go to page 174. A. This is a four-page summary of the textbook? Q. No, it's not a four-page summary of the textbook, Doctor. It is a page out of the textbook where he bullet	2 3 4 5 6 7	sentences I'm talking about. A. "For a number of reasons, most epidemiologists prefer to use confidence intervals rather than significance testing. For one thing, these provide more information than statistic significant testing." So it's an that's an
2 3 4 5 6 7 8	me. I got it. Q. Okay. Go to page 174. A. This is a four-page summary of the textbook? Q. No, it's not a four-page summary of the textbook, Doctor. It is a page out of the textbook where he bullet points, and this is the point where he talks	2 3 4 5 6 7 8	sentences I'm talking about. A. "For a number of reasons, most epidemiologists prefer to use confidence intervals rather than significance testing. For one thing, these provide more information than statistic significant testing." So it's an that's an important thing to consider, and I think we
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103 (Pages 406 to 409)

	Page 410		Page 412
1	that means your measurement is really good or	1	QUESTIONS BY MR. TISI:
2	your study sample is really, really big.	2	Q. So underneath on page 2, it
3	But you're not going to have a	3	says, "Pervasive problem." And you
4	statistically significant result if the	4	understand the American Statistical
5	confidence interval crosses 1. It will be	5	Association published 42 articles in one
6	statistically insignificant.	6	journal relating to this issue?
7	So dividing these things up is	7	A. I have no idea what the
8	not how this is meant to mean. What this	8	American association what was it called?
9	means is that the confidence interval just	9	Q. Statistical association?
10	gives you a little bit more information, but	10	A. The American Statistical
11	they're not any different than each other.	11	Association, that's not something I follow,
12	It's the same thing.	12	so it's not I would have no idea whether
13	(Merlo Exhibit 44 marked for	13	they published 42 articles or
14	identification.)	14	Q. That's a good point.
15	QUESTIONS BY MR. TISI:	15	What epidemiology journals do
16	Q. All right. Doctor, I'm going	16	you actually get? You mentioned the American
17	to show you what the American Statistical	17	Epidemiology the American Epidemiology.
18	Association says about this issue. I'm	18	Any others that you get?
19	attaching this as Exhibit Number 44.	19	A. So I don't subscribe to
20	I assume you've seen if you	20	journals because we all we get them
21	read Dr. Ballman's testimony, because I think	21	through our Welch Library. We have access to
22	it came out a couple of days before her	22	pretty much every journal available. And so
23	testimony.	23	there are a number of epidemiologic journals
24	A. Okay.	24	within the Welch Library that I have access
25	Q. I assume you've read this, sir?	25	to.
	Q. Tussame you've read this, sh.		
	Page 411		Page 413
1	Page 411 A. I have looked this over, yes.	1	Page 413 Q. Which ones do you get? Which
1 2		1 2	
	A. I have looked this over, yes.		Q. Which ones do you get? Which
2	A. I have looked this over, yes.Q. It says under the section it	2	Q. Which ones do you get? Which one do you look at?
2 3	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance."	2 3	Q. Which ones do you get? Which one do you look at? A. It would depend on the
2 3 4	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article.	2 3 4	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking. Q. Okay. Do you know who Sander
2 3 4 5	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article. Retire? A. I don't have that, actually. I have "Sciences Rise Up Against Statistical	2 3 4 5	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking.
2 3 4 5 6	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article. Retire? A. I don't have that, actually. I	2 3 4 5 6	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking. Q. Okay. Do you know who Sander Greenland is? A. I do not.
2 3 4 5 6 7	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article. Retire? A. I don't have that, actually. I have "Sciences Rise Up Against Statistical Significance." Q. All right. Well, okay. I have	2 3 4 5 6 7	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking. Q. Okay. Do you know who Sander Greenland is? A. I do not. Q. Okay. So on page 2 of this
2 3 4 5 6 7 8	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article. Retire? A. I don't have that, actually. I have "Sciences Rise Up Against Statistical Significance."	2 3 4 5 6 7 8	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking. Q. Okay. Do you know who Sander Greenland is? A. I do not. Q. Okay. So on page 2 of this document, it says, "Let's be clear about what
2 3 4 5 6 7 8	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article. Retire? A. I don't have that, actually. I have "Sciences Rise Up Against Statistical Significance." Q. All right. Well, okay. I have a different version. MS. MILLER: Retire is nature.	2 3 4 5 6 7 8	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking. Q. Okay. Do you know who Sander Greenland is? A. I do not. Q. Okay. So on page 2 of this document, it says, "Let's be clear about what must stop. We should never conclude that
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2 3 4 5 6 7 8 9 10 11 12 13	A. I have looked this over, yes. Q. It says under the section it says, "Retire Statistical Significance." That's the title of the of the article. Retire? A. I don't have that, actually. I have "Sciences Rise Up Against Statistical Significance." Q. All right. Well, okay. I have a different version. MS. MILLER: Retire is nature. THE WITNESS: And then I have "Comment." So this is a comment.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Which ones do you get? Which one do you look at? A. It would depend on the situation. It would depend on the investigation that I'm undertaking. Q. Okay. Do you know who Sander Greenland is? A. I do not. Q. Okay. So on page 2 of this document, it says, "Let's be clear about what must stop. We should never conclude that there is no difference or no association just because a P value is larger than the
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12 article about misconceptions again, the 13 Rothman review which I you Exhibit 13 Rothman review which I you Exhibit 14 Number 28? 14 Number 28? 15 15 A. Exhibit 28? 15 A. Okay. Have it. 17 A. Okay. I have it. 17 Doctor, I could have chosen dozens of articles where Dr. Rothman makes the same, including in his textbook. He has been very adamant about this. So, I mean, you may not understand it, but he has written about this a lot. So let me you made a comment 25 MS. MILLER: We're going to So let me you made a comment 25 MS. MILLER: We're going to Significant star as poor classification 26 A. Thank you. 10 A. Thank you. 10 A. Thank you. 10 A. Thank you. 11 Q. On the right-hand side. 12 A. I see it. 12 A. I see it	10		10	of General Internal Medicine. And if he's an
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14 Number 28? 15 A. Exhibit 28? 16 Q. Uh-huh. 17 A. Okay. I have it. 18 Q. Misconception number 6, 1063. 19 Can you read it for the record, please? 20 A. Misconception which one? 21 Q. 6. 22 A. 6. Okay. 23 "Misconception 6. Significant 23 I but the has written about this at testing is useful and important for the interpretation of data." Page 415 1 Q. And does it also say that on the second column, second paragraph, 2 sheeme for study results. Strong effects may be incorrectly interpreted as null findings because the authors are you? Q. Second paragraph. Q. Significant tests are a poor classification scheme for study results. Q. Tudn't understand what? M. MILLER: We're going to to strike that speech for the record. QUESTIONS BY MR. TISI: Q. Do you not do you not do you understand it? A. Understand what? M. MILLER: Objection. QUESTIONS BY MR. TISI: Q. I don't understand what your question is. MS. SHARKO: You don't have to respond to the speeches, Doctor. MS. MILLER: Yeah, just let it go. QUESTIONS BY MR. TISI: Q. Doctor, if you go to the conclusion in this thing, he says he makes the following statement: "It is easy to declare that the result is not statistically declare th	12		12	misconceptions that he's trying to bring
15 A. Exhibit 28? 16 Q. Uh-huh. 17 A. Okay. I have it. 18 Q. Misconception number 6, 1063. 19 Can you read it for the record, please? 20 A. Misconception - which one? 21 Q. 6. 22 A. 6. Okay. 23 "Misconception 6. Significant testing is useful and important for the interpretation of data." Page 415 1 Q. And does it also say that on the second column, second paragraph, 3 "Significant tests are a poor classification scheme for study results. Strong effects may be incorrectly interpreted as a null findings because the author" A. I rank you. 10 Q. Second paragraph. 21 Q. Second paragraph. 22 Q. Second paragraph. 23 G. Second paragraph. 24 Let's go to the conclusion 25 A. I see it. 26 A. I see it. 27 A. I see it. 28 Significant ests are a poor classification scheme for study results. 29 G. Second paragraph. 30 G. Second paragraph. 41 C. Do you see that? 42 C. Do you see that? 43 C. Do you agree with that? 44 C. Do you agree with that? 45 Doctor, I could have chosen dosens of articles where Dr. Rothman makes the same, including in his textbook. He has been very adamant about this. So, I mean, you may not understand it, but he has written about this a lot. 4 So let me you made a comment 4 So let me you made a comment 4 MS. MILLER: We're going to Page 417 Page 418 Page 41	13	Rothman review which I you Exhibit	13	forward in the epidemiology community, I'm
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A. So again, I'm just going to say 25 significant, falsely implying that there is	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	the second column, second paragraph, "Significant tests are a poor classification scheme for study results. Strong effects may be incorrectly interpreted as null findings because the author" A. I'm sorry to interrupt. Where are you? Q. Second paragraph. A. Thank you. Q. On the right-hand side. A. I see it. Q. "Significant tests are a poor classification scheme for study results. Strong effects may be incorrectly interpreted as null findings because the authors fallaciously interpret lack of statistical significance or imply lack of effect or weak effects may be incorrectly interpreted as important because they are statistically significant." Do you see that? A. I do see that.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	to strike that speech for the record. QUESTIONS BY MR. TISI: Q. You made a comment, and I really have to push back on it. Let's go to the conclusion A. Are you asking me if I don't understand it? Q. Do you not do you not do you understand it? A. Understand what? MS. MILLER: Objection. QUESTIONS BY MR. TISI: Q. I don't understand what your question is. MS. SHARKO: You don't have to respond to the speeches, Doctor. MS. MILLER: Yeah, just let it go. QUESTIONS BY MR. TISI: Q. Doctor, if you go to the conclusion in this thing, he says he makes the following statement: "It is easy to
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		1	
	Page 418		Page 420
1	no indication of an association, rather than	1	A. Mucinous. Which ones?
2	considering it the quantitative	2	Mucinous, invasive mucinous, borderline?
3	quantitatively the range of associations that	3	Q. Uh-huh.
4	the data actually support."	4	A. Yeah, with much a much lower
5	Do you see that?	5	number of studies that looked at that.
6	A. I do see that sentence.	6	Q. Would any bias or recall bias
7	Q. Okay. And what he's talking	7	or confounding have what would that
8	about, the range of associations, is	8	what would explain that there would be a
9	expressed by the confidence interval; is that	9	difference between serous tumors and
10	correct?	10	nonserous tumors?
11	A. I don't know what he's	11	Because I assume there would be
12	referring to there.	12	no reason for a woman to recall exposure to
13	Q. Okay.	13	one and not the other.
14	A. But if he's talking about a	14	MS. MILLER: Objection.
15	nonstatistically significant result, then the	15	Mischaracterizes this table, among
16	confidence interval will include 1.	16	other problems.
17	(Merlo Exhibit 21 marked for	17	THE WITNESS: I'm not sure what
18	identification.)	18	you're asking.
19	QUESTIONS BY MR. TISI:	19	QUESTIONS BY MR. TISI:
20	Q. Okay. Doctor, I want to go	20	Q. Okay. Let's go on.
21	back for a moment to the we were talking	21	On the qualitative data
22	about the hospital-based studies and the	22	synthesis on page on the right-hand
23	heterogeneity, and we talked about Berge, and	23	column, at the bottom of the second paragraph
24	I want to talk about Penninkilampi for a	24	it says, "The only outcome" it talks about
25	moment.	25	the three cohort studies.
	Page 419		Page 421
1	I'll show the Penninkilampi	1	"The only outcome reported in
2	study which you reviewed in your report.	2	all three studies was any perineal talc use,
3	A. Thank you.	3	hence the available data from prospective
4	Q. And that's exhibit number	4	studies was limited."
5	Exhibit Number 21.	5	Do you see that?
6	You've seen this study before?	6	A. Can you point me to where
7	A. Yes, I have.	7	you're reading?
8	Q. First of all, I'm going like	8	Q. (Indicating.)
9	you to go to page 200 to page 44, please.	9	MS. MILLER: So it's the third
10	It's the one with the table on it.	10	to the last paragraph, the last
11	A. 44, yes.	11	sentence? Is that where you are?
12	Q. Now, it showed on the	12	MR. TISI: It's the second
13	Table 1 it shows serous invasive and serous	13	paragraph on the right-hand side.
14	borderline tumors having a statistically	14	THE WITNESS: The last sentence
15	significant elevated risk of 1.32 and 1.39	15	of the second paragraph?
16	respectively, correct?	16	QUESTIONS BY MR. TISI:
17	A. Serous invasive, serous	17	Q. The last sentence.
		1	
18	borderline, 1.32, 1.39.	18	"The only outcome reported in
		18 19	"The only outcome reported in all three core studies was any perineal talc
18	borderline, 1.32, 1.39.	1	• • •
18 19	borderline, 1.32, 1.39. Q. Okay. And this is a	19	all three core studies was any perineal talc
18 19 20	borderline, 1.32, 1.39. Q. Okay. And this is a meta-analysis, true? A. This is a meta-analysis.	19 20	all three core studies was any perineal talc use." And that would be irrespective of
18 19 20 21	borderline, 1.32, 1.39. Q. Okay. And this is a meta-analysis, true? A. This is a meta-analysis.	19 20 21	all three core studies was any perineal talc use." And that would be irrespective of duration, frequency, et cetera, right?
18 19 20 21 22	borderline, 1.32, 1.39. Q. Okay. And this is a meta-analysis, true? A. This is a meta-analysis. Q. Okay. Now it does not show the	19 20 21 22	all three core studies was any perineal talc use." And that would be irrespective of duration, frequency, et cetera, right? A. That would refer to any
18 19 20 21 22 23	borderline, 1.32, 1.39. Q. Okay. And this is a meta-analysis, true? A. This is a meta-analysis. Q. Okay. Now it does not show the same for mucinous, mucinous invasive, et	19 20 21 22 23	all three core studies was any perineal talc use." And that would be irrespective of duration, frequency, et cetera, right? A. That would refer to any perineal talc use if they're combined

106 (Pages 418 to 421)

	Page 422		Page 424
1	And there so he indicated	1	interval of 1.01 to 1.55, heterogeneity, .33.
2	that the available data from the prospective	2	Do you see that?
3	studies, meaning the cohort studies, was	3	A. Which line is that?
4	limited, true? It's what he says?	4	Q. Under Types of Ovarian Cancer,
5	A. In combining them it's limited,	5	Doctor. Right here.
6	because the cohort studies may have not	6	A. I see that.
7	collected the same data about talc exposure.	7	Q. Let's read what he says in
8	Q. Okay. It also says, "A	8	conclusion. The conclusion that
9	subgroup analysis related to study population	9	Dr. Penninkilampi reaches when he did his
10	setting, i.e., hospitals or general	10	meta-analysis says and this is
11	population, was performed for any perineal	11	January 2018. "The results of this review
12	use application."	12	indicate that perineal talc is associated
13	Do you see that?	13	with a 24 to 39 percent increased risk of
14	A. Yes, I do.	14	ovarian cancer. While the case-control
15	Q. And the conclusion was, "There	15	studies are prone to recall bias, especially
16	was no difference between the pooled results	16	with intense media attention following the
17	for hospital-based and population studies,	17	commencement of a litigation in 2014, the
18	OR, 1.22 versus 1.33 respectively."	18	confirmation of an association in cohort
19	Do you see that?	19	studies between perineal talc use and serous
20	A. I do see that sentence, but I	20	ovarian cancer is suggestive of a causal
21	need see what that's referring to, what table	21	association."
22	and where that's coming from.	22	Do you see that?
23	Q. Well, have you reviewed this	23	A. I do see that; however,
24	before?	24	Penninkilampi
25	A. I have. I just haven't	25	Q. I didn't ask you a question. I
	Page 423		Page 425
1		1	
1 2	Page 423 memorized it. There's a lot of papers out there.	1 2	just asked
	memorized it. There's a lot of papers out there.		just asked A. Well, I need to qualify this
2	memorized it. There's a lot of papers out there.	2	just asked A. Well, I need to qualify this because Penninkilampi left out the left
2	memorized it. There's a lot of papers out there. Q. Okay.	2 3	just asked A. Well, I need to qualify this
2 3 4	memorized it. There's a lot of papers out there. Q. Okay. A. And I don't know what that	2 3 4	just asked A. Well, I need to qualify this because Penninkilampi left out the left out Gates, and in Gates there was no association between serous.
2 3 4 5	memorized it. There's a lot of papers out there. Q. Okay. A. And I don't know what that sentence is referring to.	2 3 4 5	just asked A. Well, I need to qualify this because Penninkilampi left out the left out Gates, and in Gates there was no association between serous.
2 3 4 5 6	memorized it. There's a lot of papers out there. Q. Okay. A. And I don't know what that sentence is referring to. Q. Okay. Then it goes on to say,	2 3 4 5 6	just asked A. Well, I need to qualify this because Penninkilampi left out the left out Gates, and in Gates there was no association between serous. Q. I just asked you if you saw it.
2 3 4 5 6 7	memorized it. There's a lot of papers out there. Q. Okay. A. And I don't know what that sentence is referring to. Q. Okay. Then it goes on to say, "There was heterogeneity in the analysis for	2 3 4 5 6 7	just asked A. Well, I need to qualify this because Penninkilampi left out the left out Gates, and in Gates there was no association between serous. Q. I just asked you if you saw it. I'm going to ask you a follow-up question.
2 3 4 5 6 7 8	memorized it. There's a lot of papers out there. Q. Okay. A. And I don't know what that sentence is referring to. Q. Okay. Then it goes on to say, "There was heterogeneity in the analysis for non-perineal applications of talc. There was	2 3 4 5 6 7 8	just asked A. Well, I need to qualify this because Penninkilampi left out the left out Gates, and in Gates there was no association between serous. Q. I just asked you if you saw it. I'm going to ask you a follow-up question. Okay?
2 3 4 5 6 7 8 9	memorized it. There's a lot of papers out there. Q. Okay. A. And I don't know what that sentence is referring to. Q. Okay. Then it goes on to say, "There was heterogeneity in the analysis for non-perineal applications of talc. There was no heterogeneity for any other outcome	2 3 4 5 6 7 8 9	just asked A. Well, I need to qualify this because Penninkilampi left out the left out Gates, and in Gates there was no association between serous. Q. I just asked you if you saw it. I'm going to ask you a follow-up question. Okay? Did you see it?
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	Page 426		Page 428
1	numbers.	1	just wanted to make sure we were on
2	So I'm not agreeing or	2	the same page.
3	disagreeing with the statement. I'm	3	MR. TISI: I don't know why you
4	disagreeing with the methodology that	4	need to confirm that, but, okay, fine,
5	led to that statement.	5	I changed the question.
6	QUESTIONS BY MR. TISI:	6	THE WITNESS: So there are six
7	Q. Now, you would agree with me	7	meta-analyses that I reviewed, and
8	that this article was peer-reviewed and	8	again, it depends on what we're
9	published, right?	9	looking at here.
10	A. I don't know. I don't know	10	There's a meta-analysis from
11	I'm not I don't serve on the review	11	
			1995 which done by Gross which may
12	committee for Epidemiology. I don't know	12	not have the same quality that
13	what their practices are. I can only speak	13	meta-analyses done later because we
14	to the journals that I review for and whether	14	learned how to do meta-analyses over
15	or not those are peer-reviewed.	15	time.
16	Q. Doctor, isn't it true that	16	But also have to remember that
17	every meta-analysis done in this case shows	17	some of these meta-analyses broke
18	between a 25 and 40 percent increased	18	things down by type of study, design,
19	statistically significant increased risk of	19	case-control versus cohort study, and
20	ovarian cancer?	20	even broke it down even further,
21	MS. MILLER: Objection.	21	breaking down the case-control studies
22	QUESTIONS BY MR. TISI:	22	into hospital-based versus
23	Q. Every published and even	23	population-based.
24	unpublished meta-analysis shows that risk?	24	And it's inappropriate to lump
25	MR. LOCKE: Objection.	25	them all together, because they're
	Page 427		Page 429
	1490 127		Page 429
1	MS. MILLER: Objection.	1	different study designs.
1 2		1 2	
	MS. MILLER: Objection. THE WITNESS: We'd have to go		different study designs.
2	MS. MILLER: Objection.	2	different study designs. QUESTIONS BY MR. TISI:
2 3 4	MS. MILLER: Objection. THE WITNESS: We'd have to go through each specific one if you want	2	different study designs. QUESTIONS BY MR. TISI: Q. But, Doctor, every one of these passed peer review, every single one, right?
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	Page 430		Page 432
1	published in peer-reviewed journals, right?	1	literature out there and based on the
2	MR. LOCKE: Objection.	2	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
3	THE WITNESS: I don't know.	3	13, 14, 15, 16, 17 articles that may
4		4	have sorry yeah, about that. I
5	QUESTIONS BY MR. TISI:	5	mean, I haven't tallied them up, but a
6	Q. You don't know	6	bunch have attempted to look at dose
7	A. I don't know if these are all	7	response, and that dose response is
8	peer-reviewed journals.	8	just not there.
9	Q. All right. Let's talk about	9	QUESTIONS BY MR. TISI:
10	dose response. That's the one of the Hill	10	Q. First of all, is dose response
11	aspects, and you spent some time talking	11	required for Bradford Hill?
12	about that. And you discuss it on page 32 of	12	MS. MILLER: Objection.
13	your report.	13	THE WITNESS: Again, if we
14	Do you see that, sir?	14	if we go back to Bradford Hill,
15	A. I do see where I talk about	15	Bradford Hill has considerations, and
16	dose response in my report.	16	those nine considerations oftentimes
17	Q. And you claim on page 45 when	17	run into each other.
18	you're criticizing plaintiffs' experts that	18	Does one or another outweigh
19	plaintiffs' experts claim there was dose	19	the other? They're usually used in
20	response when none exists, right?	20	combination.
21	MR. LOCKE: Objection.	21	QUESTIONS BY MR. TISI:
22	QUESTIONS BY MR. TISI:	22	Q. Okay.
23	Q. It's on page 45.	23	A. Is one of them required and an
24	A. I thought we were on page 32.	24	absolute? They're considerations that in
25	Q. I said, you talk about your	25	used in combination can help provide
			Page 433
_	_		_
1	opinions on lack of dose response, and you	1	information on the causal pathway.
2	criticize plaintiffs' experts who claim there	2	Q. And it is often true with
3	is dose response when none exist.	3	exposures as opposed to drugs that it is
4 5	A. So on page 32, they're not my	4	difficult to measure exposure, true?
	opinions; that's what's found in the medical	5	We talked about smoking. We
6 7	literature.	6	talked about asbestos. We've talked about
8	Q. I got it. I hear you, Doctor.	7	pollution. We've talked about benzene. We've talked about all different kinds of
9	I'm saying your two parts of	8	
10	your discussion, you point out dose response on page 32, and that's your interpretation of	9	exposure. It is often difficult to know
11	the studies, and your criticisms of the	11	exactly how much a person gets, true?
12	plaintiffs' experts appear on page 45.	12	MS. MILLER: Objection.
13	MS. MILLER: Objection.	13	THE WITNESS: It depends. I
14	THE WITNESS: On page 45, I	14	mean, that's a very general statement.
15	talk about where there is no dose	15	I think if we're if you have an
16	response, and that would be my	16	accurate way of measuring something,
17	opinion.	17	then it's easier. If you don't,
18	QUESTIONS BY MR. TISI:	18	then
19	Q. Right. And that plaintiffs are	19	QUESTIONS BY MR. TISI:
20	just flat out wrong, plaintiffs' experts?	20	Q. Let's take cigarettes.
21	MR. LOCKE: Objection.	21	A it's more difficult.
		22	Q. Let's take cigarettes. We use
	THE WITNESS, Tuluni can		
22	THE WITNESS: I didn't say I'm not saying plain out flat out		
22 23	I'm not saying plain out, flat out	23	pack years, right?
22			

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	Page 434		Page 436
1		1	
1	duration	1	Is it difficult to measure dose
2	Q. But you don't know how much	2	with exposures like this that are not drugs,
3	A of exposure.	3	for example?
4	Q. You don't know how much a	4	MS. MILLER: Objection.
5	person actually gets, how much they actually	5	THE WITNESS: And I'll say it
6	take into their lungs, whether they complete	6	depends. If there is a reliable
7	the whole cigarette, whether they go halfway	7	measure of if there's a reliable
8	and then put it out, whether they just puff	8	method of measuring something
9	on it. You don't really know how much they	9	because we're talking in generalities.
10	actually get, right?	10	If there's a reliable measure, then
11	MS. MILLER: Objection.	11	it's easier.
12	MR. LOCKE: Objection.	12	QUESTIONS BY MR. TISI:
13	THE WITNESS: Actually, I	13	Q. What's the best way to measure
14	haven't reviewed the literature on	14	talc exposure?
15	this, and there may be studies out	15	MS. MILLER: Objection.
16	there that I'm just not aware of. And	16	THE WITNESS: Measuring talc
17	there may be studies that have looked	17	exposure is would be very difficult
18	at how much deposition goes into the	18	to measure because of many, many
19	lungs.	19	factors.
20	We have studies looking at	20	QUESTIONS BY MR. TISI:
21	inhalational antibiotics, and we've	21	Q. Okay. And have you seen where
22	studied actually how much gets into	22	articles attempted to figure out a way to do
23	the lungs. I'd have to read	23	that?
24	literature on	24	MS. MILLER: Objection.
25		25	THE WITNESS: What kind of
	Page 435		Page 437
1	QUESTIONS BY MR. TISI:	1	articles are you referring to?
2	QUESTIONS BY MR. TISI: Q. Well, those would be clinical	1 2	articles are you referring to? QUESTIONS BY MR. TISI:
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	Page 438		Page 440
1	And that's actually more	1	off the record for this.
2	important than frequency and duration	2	MR. TISI: Given the way your
3	because we have no idea what even goes	3	experts have filed things with Health
4	into that frequency and duration.	4	Canada, with Dr. Nicholson, not
5	(Merlo Exhibit 30 marked for	5	identifying who she was when she was
6	identification.)	6	writing for the Cosmetic Association
7	QUESTIONS BY MR. TISI:	7	of Canada, I don't think you get to
8	Q. I'm going to show you what I	8	talk.
9	have marked as Exhibit Number 30, which is an	9	MS. SHARKO: I think your
10	meta-analysis by Taher. It's not been	10	comments are totally off base. You
11	published yet, but it is the draft that we	11	asked me why we laughed.
12	have that's been commissioned by Health	12	MR. TISI: It's not even
13	Canada.	13	appropriate to laugh. Even if you
14	You've seen this before, right?	14	thought it was funny, it's not
15	A. I've seen Taher. I'm not aware	15	appropriate.
16	that it's commissioned by Health Canada.	16	QUESTIONS BY MR. TISI:
17	Q. I'll represent to you that it	17	O. Doctor
18	is.	18	MS. SHARKO: Well, then don't
19	When did you see this study for	19	make the obnoxious comments.
20	the first time?	20	MR. TISI: You don't think
21	A. I don't recall. Sometime after	21	laughing is obnoxious?
22	December.	22	QUESTIONS BY MR. TISI:
23	Q. So if you look at if you	23	Q. On page 26, the summary of
24	look at the conclusion on the one that says	24	evidence on biologic gradient exposure
25	page 49 on the bottom, P2.00344.9, it says,	25	response.
	page 15 on the conton, 1 21000 1 115, 11 out of,		response.
	Page 439		Page 441
1	source of funding. "This work was supported	1	A. 26?
2	by Health Canada."	2	Q. There's a chart.
3	Do you see that?	3	A. I see it.
4	A. I do. "This work was supported	4	Q. Okay? It discusses it
5	by Health Canada."	5	summarizes the evidence on biologic gradient.
6	Q. Do you think Health Canada is	6	It says, "About half of the epidemiologic
7	involved with this litigation?	7	studies assessed only one level of talc
8	MR. LOCKE: Objection.	8	exposure, ever versus never usage."
9	THE WITNESS: Again, I told you	9	Is that correct?
10	I don't know anything about Health	10	MR. LOCKE: Objection.
11	Canada.	11	MS. MILLER: Objection.
12	QUESTIONS BY MR. TISI:	12	Are you asking
13	Q. Do you think that this	13	MR. TISI: I'm asking what I'm
14	MR. TISI: You want to talk	14	asking.
15	about inappropriate, that was totally	15	MS. MILLER: whether you
16	inappropriate, that laughter.	16	read it correctly?
17	MS. SHARKO: Given this	17	MR. TISI: No. I'm asking is
	given the way your experts are having	18	that correct.
18	given the way your experts are having		OLIEGTIONIC DVIMB. TIGI
	this big ex parte communication with	19	QUESTIONS BY MR. TISI:
18		19 20	QUESTIONS BY MR. TIST: Q. "About half of the epidemiology
18 19	this big ex parte communication with		
18 19 20	this big ex parte communication with Health Canada, I don't think so,	20	Q. "About half of the epidemiology
18 19 20 21	this big ex parte communication with Health Canada, I don't think so, Mr. Tisi.	20 21	Q. "About half of the epidemiology studies assessed only one level of talc
18 19 20 21 22	this big ex parte communication with Health Canada, I don't think so, Mr. Tisi. MR. TISI: Given the way	20 21 22	Q. "About half of the epidemiology studies assessed only one level of talc usage, ever versus never."

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Christian Merlo, M.D., MPH

	Page 442		Page 444
1	memorized. I'm going to have to go	1	a biologic gradient, then we should
2	back to each individual article and	2	look for it.
3	look to see if it's about half.	3	QUESTIONS BY MR. TISI:
4	That's not something that I have	4	Q. Right.
5	memorized.	5	And should look for evidence of
6	I know that I did look into the	6	it?
7	different exposure categories or the	7	A. Look for such evidence.
8	different levels of exposure in each	8	Q. Right.
9	study, but I didn't lump those into	9	And it goes down at the
10	that kind of broad category.	10	bottom it says, "Often the difficulty is to
11	QUESTIONS BY MR. TISI:	11	secure some satisfactory quantitative measure
12	Q. The next one says, "Of the 12	12	of environment which will permit us to
13	studies reporting a positive association, six	13	explore dose response, but we should
14	studies found a significant exposure response	14	invariably seek it."
15	trend, particularly with medium and high	15	Do you agree with that?
16	frequency usage groups. Regarding duration	16	MS. MILLER: Objection.
17	of use, exposure to talc, several studies	17	THE WITNESS: Can you ask me
18	reported the greatest risk in 20-plus years	18	that again? I'm sorry.
19	of exposure group followed by 10 to 20 years	19	QUESTIONS BY MR. TISI:
20	group, then less than 10 years group."	20	Q. Yes.
21	Do you see that?	21	It says, "Often the difficulty
22	A. I do see that statement.	22	in to secure some satisfactory quantitative
23	Q. Now, Bradford Hill doesn't	23	measure of environment which would permit us
24	require proof of dose response. It just says	24	to explore this dose response, but we should
25	if there is evidence of it, that's supportive	25	invariably seek it."
	Page 443		Page 445
1		1	
1 2	of causation, correct?	1 2	A. That's correct.
2	of causation, correct? MR. LOCKE: Objection.	2	A. That's correct.Q. All right. And so in trying to
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	of causation, correct? MR. LOCKE: Objection. THE WITNESS: Well, I'm going to have to QUESTIONS BY MR. TISI: Q. Let's get it. A refer back to Bradford Hill and see what he says. Q. Let's see what he says. Exhibit Number 14. It's on page 10. A. Okay. Q. It says, "If" "Fifthly, if the association is one which can reveal a biologic gradient or a dose-response curve, then we should look most carefully for such evidence." Do you see that? A. I do see that. Q. It doesn't say statistically	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. That's correct. Q. All right. And so in trying to seek the evidence, these authors, not involved in litigation, found that there was at least evidence of a dose response, correct? MR. LOCKE: Objection. THE WITNESS: I'm going to have to turn back to that page again and look at it because I don't know the exact words. What page is that on again? 26? QUESTIONS BY MR. TISI: Q. Yes. And I'll read it again, Doctor. "Of the 12 studies reporting a positive association, six studies found significant exposure response trends, particularly with medium and high frequency
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	of causation, correct? MR. LOCKE: Objection. THE WITNESS: Well, I'm going to have to QUESTIONS BY MR. TISI: Q. Let's get it. A refer back to Bradford Hill and see what he says. Q. Let's see what he says. Exhibit Number 14. It's on page 10. A. Okay. Q. It says, "If" "Fifthly, if the association is one which can reveal a biologic gradient or a dose-response curve, then we should look most carefully for such evidence." Do you see that? A. I do see that. Q. It doesn't say statistically significant evidence, it doesn't say studies which demonstrate it, does it?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. That's correct. Q. All right. And so in trying to seek the evidence, these authors, not involved in litigation, found that there was at least evidence of a dose response, correct? MR. LOCKE: Objection. THE WITNESS: I'm going to have to turn back to that page again and look at it because I don't know the exact words. What page is that on again? 26? QUESTIONS BY MR. TISI: Q. Yes. And I'll read it again, Doctor. "Of the 12 studies reporting a positive association, six studies found significant exposure response trends, particularly with medium and high frequency usage groups. Regarding duration of use, exposure to talc, several studies reported

112 (Pages 442 to 445)

	Page 446		Page 448
1	A. So	1	genital talc use and ovarian cancer, which
2	MR. LOCKE: Is there a	2	appears to be limited to serous carcinoma
3	question?	3	with suggestion of dose response."
4	MR. TISI: Yes. That's the	4	Is that
5	section I was referring to.	5	MS. MILLER: So you've got the
6	QUESTIONS BY MR. TISI:	6	ellipses leaving out the "which
7	Q. Isn't that what they found?	7	appears to be limited to serous
8	A. That's what they say.	8	carcinoma"?
9	(Merlo Exhibit 46 marked for	9	MR. TISI: I'm reading it from
10	identification.)	10	the study, Doctor.
11	QUESTIONS BY MR. TISI:	11	QUESTIONS BY MR. TISI:
12	Q. Okay. Let me show you Exhibit	12	Q. Am I reading that correctly, if
13	Number 46, which is a compilation exhibit	13	you look at it?
14	that I pulled together, and I tabbed it for	14	MR. LOCKE: Objection. Asked
15	you with the actual articles. And you can	15	and answered.
16	check my quotations from it.	16	THE WITNESS: You're reading
17	MS. MILLER: I'm going to	17	the abstract.
18	object to this exhibit, of course.	18	QUESTIONS BY MR. TISI:
19	MR. TISI: Of course you are.	19	Q. Yes. Is that correct.
20	MS. MILLER: Because you once	20	I'm just asking you, Doctor,
21	again just pulled random sentences out	21	whether it says that.
22	of studies	22	A. And I said that's what it says
23	MR. TISI: Okay.	23	in the abstract, and I'm looking for where
24	MS. MILLER: that do not	24	that is actually represented in the in the
25	account for the entire body of	25	article.
	Page 447		Page 449
1	statements within the studies.	1	Q. And in number 2 it says on
2	MR. TISI: Okay.	2	the Schildkraut study it has a quote, and
3	QUESTIONS BY MR. TISI:	3	let's turn to the Schildkraut study. And
4	Q. Now, Doctor, if you look, I	4	that's number 2. And if you go to page
5	have the Berge studies we talked about	5	A. But if I could just say,
6	before. And you saw the statement, "The	6	because I did find this Table 3 right now,
7	meta-analysis results in a weak but	7	looks at duration and frequency.
8	statistically significant association between	8	Q. Uh-huh.
	conital was aftala and arranian concentribiah		
9	genital use of talc and ovarian cancer which	9	A. And the number of risk
9 10	appears to be limited to serous with a	10	A. And the number of risk estimates are 12 and the relative risk 1.16,
10	appears to be limited to serous with a	10	estimates are 12 and the relative risk 1.16,
10 11	appears to be limited to serous with a suggestion of dose response."	10 11	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07
10 11 12	appears to be limited to serous with a suggestion of dose response." Is that correct?	10 11 12	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration,
10 11 12 13	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection.	10 11 12 13	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose
10 11 12 13 14	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI:	10 11 12 13 14	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no.
10 11 12 13 14 15	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you	10 11 12 13 14 15	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay.
10 11 12 13 14 15	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there?	10 11 12 13 14 15 16	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more
10 11 12 13 14 15 16 17	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said	10 11 12 13 14 15 16 17	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years.
10 11 12 13 14 15 16 17	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said MR. LOCKE: Objection.	10 11 12 13 14 15 16 17 18	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years. Q. Okay. Now
10 11 12 13 14 15 16 17 18	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said MR. LOCKE: Objection. MS. MILLER: That was so fast.	10 11 12 13 14 15 16 17 18	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years. Q. Okay. Now A. Frequency, one time a week.
10 11 12 13 14 15 16 17 18 19 20	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said MR. LOCKE: Objection. MS. MILLER: That was so fast. THE WITNESS: Confirm where	10 11 12 13 14 15 16 17 18 19 20	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years. Q. Okay. Now A. Frequency, one time a week. That's not that's not a frequency.
10 11 12 13 14 15 16 17 18 19 20 21	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said MR. LOCKE: Objection. MS. MILLER: That was so fast. THE WITNESS: Confirm where what is where?	10 11 12 13 14 15 16 17 18 19 20 21	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years. Q. Okay. Now A. Frequency, one time a week. That's not that's not a frequency. That's that's a yes/no, and that's a
10 11 12 13 14 15 16 17 18 19 20 21	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said MR. LOCKE: Objection. MS. MILLER: That was so fast. THE WITNESS: Confirm where what is where? QUESTIONS BY MR. TISI: Q. Okay. Number one says, "The	10 11 12 13 14 15 16 17 18 19 20 21 22	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years. Q. Okay. Now A. Frequency, one time a week. That's not that's not a frequency. That's that's a yes/no, and that's a dichotomized so that's not a dose response.
10 11 12 13 14 15 16 17 18 19 20 21 22 23	appears to be limited to serous with a suggestion of dose response." Is that correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. Is that there in? Can you confirm that that's there? MS. MILLER: You just said MR. LOCKE: Objection. MS. MILLER: That was so fast. THE WITNESS: Confirm where what is where? QUESTIONS BY MR. TISI:	10 11 12 13 14 15 16 17 18 19 20 21 22 23	estimates are 12 and the relative risk 1.16, with a 95 percent confidence interval, 1.07 to 1.26. This is just dichotomized duration, ten years. This isn't that's not a dose response. That's yes or no. Q. Okay. A. Less than ten years or more than ten years. Q. Okay. Now A. Frequency, one time a week. That's not that's not a frequency. That's that's a yes/no, and that's a dichotomized so that's not a dose response.

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	Page 450		Page 452
1	Schildkraut author say on page and then if	1	dose response?
2	you look at number 2, which is the second	2	Do you see that?
3	article attached on page 1416, the second	3	MR. LOCKE: Objection.
4	left-hand side, second to last paragraph,	4	QUESTIONS BY MR. TISI:
5	second sentence, it says, "The dose response	5	Q. Does it not say that, Doctor?
6	observed for duration of genital powder use	6	Do you see where I'm at,
7	provides further evidence of the relationship	7	Doctor?
8	between genital powder and overall EOC risk."	8	A. I do.
9	Do you see that?	9	Q. Okay. Does in not say that?
10	MR. LOCKE: Objection.	10	A. It says, "An odds ratio of 1.49
11	QUESTIONS BY MR. TISI:	11	was associated with more" and I'm sorry, I
12	Q. I highlighted it for you to	12	had to skip a couple pages "than 20 talc
13	make it easy.	13	years, greater than 7,200 applications"
14	A. That's what is said in the	14	Q. And
15	in the paper; however, when you look at	15	A "in a dose response."
16	Table 2, duration of use, again, it's	16	Q. And if you go to page
17	dichotomized into less than 20 years or	17	A. However, I would like to just
18	greater than 20 years. So there's no full	18	look at
19	never use and genital use.	19	Q. Your lawyer can ask you
20	And then it's looked at	20	questions. I asked whether that's in the
21	lifetime body powder applications. Again,	21	published article.
22	dichotomized in above median, 3,600, or	22	The next is on page 345, in
23	below or above 3,600.	23	summary.
24	That's not a dose response. A	24	Do you see that?
25	dose response is multiple categories. This	25	It says, "Overall, there's an
	Page 451		Page 453
1	is a dichotomy. This is a yes or no. Is it	1	association between genital talc use and EOC
2	more or less. That's not a dose response.	2	in a significant trend with increasing talc
3	Q. Okay. Doctor, that's what the	3	years' use."
4	authors say that's in the published	4	MR. LOCKE: Is there a
5	peer-reviewed literature, correct?	5	question?
6	MR. LOCKE: Objection.		question.
		6	MR. TISI: Yes. I said, is
7	MS. MILLER: Objection.		MR. TISI: Yes. I said, is that correct?
7 8		6	MR. TISI: Yes. I said, is
	MS. MILLER: Objection.	6 7	MR. TISI: Yes. I said, is that correct?
8	MS. MILLER: Objection. THE WITNESS: I said that	6 7 8	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI:
8 9 10 11	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not	6 7 8 9	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On
8 9 10	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose	6 7 8 9 10	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the
8 9 10 11	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI:	6 7 8 9 10 11	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature:
8 9 10 11 12 13 14	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection.	6 7 8 9 10 11 12	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between
8 9 10 11 12 13	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you?	6 7 8 9 10 11 12 13	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature:
8 9 10 11 12 13 14 15	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents.	6 7 8 9 10 11 12 13 14 15	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing
8 9 10 11 12 13 14 15 16 17	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's	6 7 8 9 10 11 12 13 14 15	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use."
8 9 10 11 12 13 14 15	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents.	6 7 8 9 10 11 12 13 14 15 16 17	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right?
8 9 10 11 12 13 14 15 16 17 18	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents. QUESTIONS BY MR. TISI:	6 7 8 9 10 11 12 13 14 15 16 17 18	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right? A. I see that written there.
8 9 10 11 12 13 14 15 16 17	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents. QUESTIONS BY MR. TISI: Q. All right. Let's go to the	6 7 8 9 10 11 12 13 14 15 16 17	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right?
8 9 10 11 12 13 14 15 16 17 18	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents. QUESTIONS BY MR. TISI: Q. All right. Let's go to the next one. Let's go to the Cramer study,	6 7 8 9 10 11 12 13 14 15 16 17 18	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right? A. I see that written there.
8 9 10 11 12 13 14 15 16 17 18 19 20	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents. QUESTIONS BY MR. TISI: Q. All right. Let's go to the next one. Let's go to the Cramer study, which is number 3 and 4. There's two	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right? A. I see that written there. Q. And does it appear in the
8 9 10 11 12 13 14 15 16 17 18 19 20 21	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents. QUESTIONS BY MR. TISI: Q. All right. Let's go to the next one. Let's go to the Cramer study, which is number 3 and 4. There's two statements here. One is on page 335, and	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right? A. I see that written there. Q. And does it appear in the peer-reviewed literature?
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MS. MILLER: Objection. THE WITNESS: I said that that's what it said, but that's not what dose QUESTIONS BY MR. TISI: Q. Okay. So why are you going any further than what I asked you? MR. LOCKE: Objection. THE WITNESS: Because that's not what a dose response represents. QUESTIONS BY MR. TISI: Q. All right. Let's go to the next one. Let's go to the Cramer study, which is number 3 and 4. There's two statements here. One is on page 335, and I've highlighted it.	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MR. TISI: Yes. I said, is that correct? MS. MILLER: Is what correct? MR. LOCKE: Objection. QUESTIONS BY MR. TISI: Q. I said do you see it. On page 345, number 1 in the Cramer study, the authors report in the peer-review literature: "Overall, there is an association between genital talc use and epithelial ovarian cancer in a significant trend with increasing talc years' of use." Did I read that right? A. I see that written there. Q. And does it appear in the peer-reviewed literature? MS. MILLER: Objection.

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Christian Merlo, M.D., MPH

	Page 454		Page 456
1	QUESTIONS BY MR. TISI:	1	"However, only about half the studies
2	Q. Okay.	2	examined exposure response relationships, and
3	A. I can't comment on whether it	3	the evidence for this is less consistent.
4	was peer-reviewed or not.	4	Our study adds to the small group of studies
5	Q. Okay. And the next study,	5	that have investigated a combination of
6	which is the Terry study you've seen that	6	frequency and duration of use of ovarian
7	study before as well, Doctor? That's	7	cancer on ovarian cancer."
8	number 5?	8	A. So I think I think in my
9	A. I have.	9	report I actually said that Wu, there's a
10	Q. Okay. All right. Do you see	10	suggestion of a dose response, as well as
11	where the statement where it says I	11	Cramer 2016, there is a suggestion of dose
12	highlighted it for you. "The association	12	response.
13	between genital powder exposure and ovarian	13	But all the cutoffs were not
14	cancer may not be linear, and a modest	14	statistically significant, so, you know
15	exposure may be sufficient to increase the	15	Q. But, of course but, of
16	cancer risk."	16	course, we just agreed that Bradford Hill
17	Do you see that?	17	doesn't require a statistically significant
18	A. I do see that.	18	result on dose response. Just says it's good
19	Q. Okay. Next one is Wu. That's	19	if you have evidence of it.
20	the one where I think you agree there was	20	MS. MILLER: Objection.
21	evidence of dose response, correct?	21	MR. LOCKE: Objection.
22	A. Well, the statement in the	22	THE WITNESS: I didn't agree to
23	Terry where it just says, "Alternatively, the	23	that. I think that I have to take
24	associate" that's not saying that there's	24	what this table tells me, and if there
25	a dose response. That's just stating	25	is evidence of a dose response based
	Page 455		Page 457
1	something.	1	on what the numbers look like and is
2	Q. Okay.	2	there a consistent increase in risk
3	A. It says nothing about dose	3	with increasing duration and
4	response.	4	frequency, and those numbers are
5	Q. Next one is Wu, number 5. I'm	5	statistically significant, then that
6	sorry, number 6.	6	would suggest a dose response.
7	A. Number 6.	7	However, if we look at the risk
8	Q. Okay. In the abstract, does it	8	estimates in Wu here, looking at
9	not say, "Risk of ovarian cancer increased	9	Table 2, looking at total number of
10	significantly with increasing frequency and	10	times, yeah, there is a there is a
11	duration of tale use"?	11	suggestion that there is an increase
12	A. So in Wu just trying to flip	12	in risk estimate with increasing
13	through these.	13	number of talc uses, but those numbers
14	Where'd you read that?	14	are not statistically significant. So
15	Q. In the abstract. It's	15	they could all be the same or be
16	highlighted for you, Doctor.	16	solely due to chance.
17	A. There's a lot going on here	17	MR. TISI: I'm going to take
18	really quickly, so I'm just trying my hardest	18	THE WITNESS: So it depends.
19	to read everything.	19	MR. TISI: Okay. I want to
20	So in the abstract it says,	20	take a break.
21	"Risk of ovarian cancer increased	21	VIDEOGRAPHER: The time is
22		22	
	significantly with increasing frequency and	1	5:22 p.m. We're going off the record.
23	duration of talc use."	23	(Off the record at 5:22 p.m.)
24 25	Q. And does it also say and I	24 25	VIDEOGRAPHER: The time is
40	highlighted it for you as well in the back	⊿⊃	5:36 p.m. We're back on the record.

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	Page 458		Page 460
1	QUESTIONS BY MR. TISI:	1	curve. But that but that's just
2	Q. Doctor, can you go back to	2	describing the curve.
3	Exhibit 32, which was the Chapter 2 out of	3	QUESTIONS BY MR. TISI:
4	the Rothman textbook.	4	Q. The last sentence of this says,
5	A. I have it here.	5	"The issues imply that a existence of a
6	Q. If you can go to the section on	6	monotonic association is neither necessary
7	biologic gradient.	7	nor sufficient for causal relation."
8	MS. MILLER: Can you point us	8	Is that true or not true?
9	to a page?	9	A. And I would just have to look
10	MR. TISI: Yeah. It's 28.	10	up to see what monotonic is being defined as.
11	THE WITNESS: 28.	11	Q. So you don't have any
12	MS. MILLER: Like where it says	12	understanding what the word "monotonic"
13	out of 30?	13	means?
14	MR. TISI: You know, I don't	14	MS. MILLER: Objection.
15	have my copy right there. I'm just	15	THE WITNESS: Well, I have an
16	using the book.	16	understanding, but I need to know what
17	MS. MILLER: Sorry. There's	17	monotonic is being referred to as
18	like different page numbers.	18	here.
19	MR. TISI: Yeah, if you just	19	QUESTIONS BY MR. TISI:
20	give me it's the one that maybe	20	Q. Well, what do you how do you
21	I will look at yours. Thank you.	21	define monotonic?
22	MS. MILLER: Sure.	22	MS. MILLER: Objection.
23	QUESTIONS BY MR. TISI:	23	THE WITNESS: Usually monotonic
24	Q. It's page it's page 27 out	24	means that there is an increasing risk
25	of 30.	25	with increasing dose, or a decreasing
	Page 459		Page 461
1	A. I see it.	1	risk with decreasing dose.
2	Q. Okay. Do you agree that not	1 2	risk with decreasing dose. QUESTIONS BY MR. TISI:
	Q. Okay. Do you agree that not all bio all dose-response relationships		risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your
2	Q. Okay. Do you agree that not all bio all dose-response relationships are linear?	2	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition.
2	Q. Okay. Do you agree that not all bio all dose-response relationships are linear? MS. MILLER: Objection.	2 3	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition. Is the monotonic association
2 3 4	Q. Okay. Do you agree that not all bio all dose-response relationships are linear? MS. MILLER: Objection. THE WITNESS: There may be	2 3 4	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition. Is the monotonic association either necessary or sufficient for causal
2 3 4 5	Q. Okay. Do you agree that not all bio all dose-response relationships are linear? MS. MILLER: Objection.	2 3 4 5	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition. Is the monotonic association
2 3 4 5 6	Q. Okay. Do you agree that not all bio all dose-response relationships are linear? MS. MILLER: Objection. THE WITNESS: There may be dose-response relationships that could be linear, there may be dose-response	2 3 4 5 6	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition. Is the monotonic association either necessary or sufficient for causal
2 3 4 5 6 7 8 9	Q. Okay. Do you agree that not all bio all dose-response relationships are linear? MS. MILLER: Objection. THE WITNESS: There may be dose-response relationships that could be linear, there may be dose-response relationships that may be exponential,	2 3 4 5 6 7 8	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition. Is the monotonic association either necessary or sufficient for causal relationship? A. Can you ask that again? Q. Yeah.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Okay. Do you agree that not all bio all dose-response relationships are linear? MS. MILLER: Objection. THE WITNESS: There may be dose-response relationships that could be linear, there may be dose-response relationships that may be exponential, but in general, a dose response has an increasing risk with increasing dose. QUESTIONS BY MR. TISI: Q. Right. But they could be like U-shaped curves; they could be monotonic associations; they could be all kinds of associations, right? MS. MILLER: Objection. THE WITNESS: So if we're talking about curves, a curve can look like anything. It can be a straight line. It can be something that J	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	risk with decreasing dose. QUESTIONS BY MR. TISI: Q. Okay. Let's just use your definition. Is the monotonic association either necessary or sufficient for causal relationship? A. Can you ask that again? Q. Yeah. I'm referring to the sentence that and Dr. Rothman says, "These issues imply that the existence of a monotonic association is neither necessary nor sufficient for causal relation." Is that true or not true using your definition of monotonic? A. Well, if we go back to the original Bradford Hill considerations, biologic gradient is only one of the considerations. And if we're talking about a causal relationship, we need to consider the other considerations as well.
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	Page 462		Page 464
1	focused now on biologic gradient or dose	1	Remember that?
2	response.	2	MR. LOCKE: Objection.
3	Would you agree with	3	THE WITNESS: We would have to
4	Dr. Rothman that a monotonic association,	4	refer back to what what I said.
5	meaning increasing dose with increasing	5	QUESTIONS BY MR. TISI:
6	duration with increasing risk, is neither	6	Q. Okay.
7	necessary nor sufficient for causal relation?	7	A. I don't recall specifically my
8	MS. MILLER: Objection.	8	language.
9	THE WITNESS: And again, I'm	9	Q. Is it necessary to have a
10	going to have to go back to what I	10	dose-response relationship in order to show
11	just said because I'm not sure what	11	causation? Is that a required element?
12	Dr. Rothman is referring to here.	12	A. I think what I said earlier is
13	Is it just specifically for	13	that of the nine Bradford Hill
14	biologic gradient	14	considerations, none of them are required.
15	QUESTIONS BY MR. TISI:	15	Q. Okay.
16	Q. Yeah.	16	A. They're helpful in making an
17	A or is it well	17	in making in putting together an
18	Q. Let's assume that's what he's	18	evaluation looking at causality.
19	saying, because I want to know if, on its	19	Q. Is Dr. Rothman's statement here
20	own, a on its own, is it necessary to have	20	wrong?
21	a increasing risk with increasing dose	21	MS. MILLER: Objection.
22	MS. MILLER: Objection.	22	QUESTIONS BY MR. TISI:
23	QUESTIONS BY MR. TISI:	23	Q. Is the existence of a monotonic
24	Q to show causation?	24	association he says, "The existence of a
25	MS. MILLER: Objection.	25	monotonic association is neither necessary
	Page 463		Page 465
1			
	THE WITNESS: Again, I will go	1	nor sufficient for causal relations."
2	THE WITNESS: Again, I will go back to the Bradford Hill	2	Is that wrong?
2		1	
2 3 4	back to the Bradford Hill considerations, and that of the nine considerations, none of them or all of	2 3 4	Is that wrong?
2 3 4 5	back to the Bradford Hill considerations, and that of the nine considerations, none of them or all of them could support causation.	2 3	Is that wrong? MS. MILLER: Objection.
2 3 4 5 6	back to the Bradford Hill considerations, and that of the nine considerations, none of them or all of	2 3 4	Is that wrong? MS. MILLER: Objection. THE WITNESS: I'm going to say it depends. If you have nine other or eight other factors that suggest
2 3 4 5 6 7	back to the Bradford Hill considerations, and that of the nine considerations, none of them or all of them could support causation. QUESTIONS BY MR. TISI: Q. Okay.	2 3 4 5	Is that wrong? MS. MILLER: Objection. THE WITNESS: I'm going to say it depends. If you have nine other or eight other factors that suggest causation and there's and a
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	Page 466		Page 468
1	exhibit it was?	1	asked that question.
2	QUESTIONS BY MR. TISI:	2	QUESTIONS BY MR. TISI:
3	Q. 21, please.	3	Q. Could that have been
4	A. 21. Got it.	4	MR. TISI: Counsel, I'm not
5	Q. You were critical of that study	5	even done, okay?
6	because Penninkilampi included Gertig but not	6	MS. MILLER: It sounded like a
7	Gates.	7	question.
8	Do you recall that?	8	MR. TISI: I'm not done.
9	MS. MILLER: Objection.	9	MS. MILLER: Apologies.
10	THE WITNESS: I did make	10	QUESTIONS BY MR. TISI:
11	reference that Gertig was included in	11	Q. In the Gates in the Gates
12	this meta-analysis and Gates was not,	12	study, do you know that talc use metric was
13	which is a more recent publication	13	great or equal to one week versus less
14	with greater numbers.	14	versus less than one time a week?
15	QUESTIONS BY MR. TISI:	15	MS. MILLER: Objection.
16	Q. Which Gates did you mean?	16	THE WITNESS: I'd love to look
17	Which Gates study did you mean should have	17	at it.
18	been included that wasn't?	18	QUESTIONS BY MR. TISI:
19	A. I'll just need to look up the	19	Q. I'm happy to show it. I'm
20	specific one in my report. Gates 2010.	20	happy to show it to you. It's my copy, so
21	Q. Okay. What was the talc	21	you can't have it. But it's in Table 4, and
22	exposure metric in Gates 2010?	22	this is Gates 2010.
23	A. If I could see the article, I	23	A. So Table 4 says, talc use,
24	could	24	greater than once a week versus less than
25	Q. Is it in your report?	25	once a week.
	Page 467		Page 469
1	A. I could point to it.	1	Page 469 Q. Right.
1 2		1 2	
	A. I could point to it.Q. Is it in your report?A. No, but I know that it was	1	Q. Right.
2 3 4	 A. I could point to it. Q. Is it in your report? A. No, but I know that it was but I would have to see the article because I 	2	Q. Right. So it's a different metric, is it not? A. It may or may not be a
2 3 4 5	A. I could point to it. Q. Is it in your report? A. No, but I know that it was but I would have to see the article because I don't specifically remember what the	2 3 4 5	Q. Right. So it's a different metric, is it not? A. It may or may not be a different metric because there is a previous
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I could point to it. Q. Is it in your report? A. No, but I know that it was but I would have to see the article because I don't specifically remember what the actual I don't want to be mistaken right now. Q. Well, Penninkilampi used an ever use of talc, correct, as its metric? A. I mean, Table 1 in Penninkilampi summarizes the different outcomes in the methods of talc use. Q. Right. A. There's any perineal, there's non-perineal, there's diaphragm, and there's sanitary napkins. Q. Well, if you look at Penninkilampi under Figure 2 on the study name. Under Figure 2 it says "any perineal talc use." Do you see? A. I do see that.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Right. So it's a different metric, is it not? A. It may or may not be a different metric because there is a previous publication where the authors felt that this was a more reliable measure of exposure of ever versus never. Q. The point is, Doctor, you were critical of Penninkilampi as to why they didn't include Gates 2010. And I'm asking you: Would that be good reason not to include Gates 2010, because it used a different metric of exposure? MS. MILLER: Objection. Calls for speculation. THE WITNESS: No, not necessarily, because the authors felt that this that this metric was actually a more reliable metric of ever versus never. QUESTIONS BY MR. TISI:

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	Page 470		Page 472
1	said ever versus ever.	1	kinds of stuff. You find time for those.
2	QUESTIONS BY MR. TISI:	2	My question to you is: Would
3	Q. They used ever use.	3	you find time do this, to submit your point
4	Gates Gertig used ever	4	of view to peer review?
5	versus never, correct?	5	MS. MILLER: Objection.
6	A. Gertig? Again, I don't have	6	THE WITNESS: Again, I'm going
7	these memorized, so I'm going to have to look	7	to have to answer it the same the
8	at it to see what we're referring to.	8	same way, that if an opportunity arose
9	Q. But the big question is you	9	and it seemed like an interesting
10	don't you can't sit here today and tell me	10	investigation
11	why it is that Penninkilampi did not use	11	QUESTIONS BY MR. TISI:
12	Gates 2010, can you?	12	Q. Is it an interesting
13	It's not in your report, and	13	investigation to you, or is this just
14	you can't tell me today?	14	something you did for this case?
15	MS. MILLER: Objection. Asked	15	MS. MILLER: Objection.
16	and answered.	16	THE WITNESS: This has this
17	THE WITNESS: The description	17	has been a very interesting exercise
18	of the of the pulling of articles	18	in evaluating epidemiology.
19	for the meta-analysis is described.	19	QUESTIONS BY MR. TISI:
20	The replication of that would have to	20	Q. And so now having been through
21	be performed to answer that question.	21	the process, do you intend to subject your
22	QUESTIONS BY MR. TISI:	22	opinions, particularly the ones where you
23	Q. And you didn't do that, did	23	were very strong in your criticism of those
24	you?	24	who have published and have put themselves
25	A. For me to for me to perform	25	out there, subject your opinions to peer
	Page 471		Page 473
1	my own meta-analysis by myself would be out	1	review?
2	of the scope of even performing an analysis	2	MR. LOCKE: Objection.
3	per a meta-analysis correctly.	3	THE WITNESS: Well
4		_	
	Q. Doctor	4	QUESTIONS BY MR. TISI:
5	Q. DoctorA. I'm going to need a team to do	1	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself
	•	4	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself
5	A. I'm going to need a team to do	4 5	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started
5 6	A. I'm going to need a team to do that.	4 5 6	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started answering the question
5 6 7	A. I'm going to need a team to do that. Q. Okay. We started our day today talking about publication and, you know, opinions inside and outside litigation and	4 5 6 7	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started
5 6 7 8	A. I'm going to need a team to do that. Q. Okay. We started our day today talking about publication and, you know,	4 5 6 7 8	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started answering the question
5 6 7 8 9	A. I'm going to need a team to do that. Q. Okay. We started our day today talking about publication and, you know, opinions inside and outside litigation and all those questions. Let me ask you this: You spent	4 5 6 7 8 9 10	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started answering the question QUESTIONS BY MR. TISI: Q. Well, let me ask you this. MS. MILLER: and you
5 6 7 8 9	A. I'm going to need a team to do that. Q. Okay. We started our day today talking about publication and, you know, opinions inside and outside litigation and all those questions.	4 5 6 7 8 9	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started answering the question QUESTIONS BY MR. TISI: Q. Well, let me ask you this.
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5 6 7 8 9 10 11 12 13	A. I'm going to need a team to do that. Q. Okay. We started our day today talking about publication and, you know, opinions inside and outside litigation and all those questions. Let me ask you this: You spent seven hours with me today. You wrote your report. You've been through this process.	4 5 6 7 8 9 10 11 12 13 14 15	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started answering the question QUESTIONS BY MR. TISI: Q. Well, let me ask you this. MS. MILLER: and you interrupted him. Can we just end the day with question, answer, question, answer? QUESTIONS BY MR. TISI:
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I'm going to need a team to do that. Q. Okay. We started our day today talking about publication and, you know, opinions inside and outside litigation and all those questions. Let me ask you this: You spent seven hours with me today. You wrote your report. You've been through this process. Do you intend to publish your views on ovarian cancer and talc? A. I have no idea what I'm going to do in the future. I I am a I have an active research career in cystic fibrosis and lung transplantation. If the opportunity arose where there was something to publish and seemed interesting, fine, but I can't predict that.	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	QUESTIONS BY MR. TISI: Q. Dr. Siemiatycki has put himself out there and submitted himself MS. MILLER: He started answering the question QUESTIONS BY MR. TISI: Q. Well, let me ask you this. MS. MILLER: and you interrupted him. Can we just end the day with question, answer, question, answer? QUESTIONS BY MR. TISI: Q. Okay. Dr. Siemiatycki published in this, correct? MS. MILLER: Objection. THE WITNESS: I'm going to have to look through what's been published by Dr. Siemiatycki.
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Christian Merlo, M.D., MPH

Page 474 Page 475			1	
THE WITNESS: Again, I told you didn't know about that. didn't know about based on the medical evidence out there, there's no evidence to ovarian cancer. do varian cancer. do varian cancer. do vers. do varian cancer. do vers. do varian cancer. do varian cancer. do vers. do vers. do vers. do varian cancer. do vers. do vers. do varian cancer. do vers. do vers. do vers. do vers. do vers. do varian cancer. do vers. do varian cancer. do vers.	Page 474		Page 476	
1 didn't know about that. 4 QUESTIONS BY MR. TISI: 5 Q. Dr. Smith-Bindman said she's going to submit her meta-analysis to publication. 5 publication. 7 out there, there's no evidence to said that. 10 Q. Dr. Moorman was a coauthor on the schildkraut study, correct? 12 Q. Yes. 11 QUESTIONS BY MR. TISI: 2 Q. Yes. 12 Q. Yes. 13 A there's no evidence to suggest that - and if we're specifically talking about risk of ovarian cancer - QUESTIONS BY MR. TISI: 12 Q. Yes. 13 A there's no evidence to suggest a causal relationship between talcum powder and ovarian cancer. 14 Suggest that - and if we're specifically talking about risk of ovarian cancer - QUESTIONS BY MR. TISI: 12 Q. Yes. 13 A there's no evidence to suggest a causal relationship between talcum powder and ovarian cancer. 14 Suggest a causal relationship between talcum powder and ovarian cancer. 15 Q. No evidence whatsoever? 17 A. Based on the body of medical literature, no, there is not evidence 18 Iliterature, no, there is not evidence 19 Q. And so you would 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them 20 A but there is a Q. You would tell them Page 475 Page 475 Page 475 Page 475 Page 476 Page 477 Page 4	1	MR. LOCKE: Objection.	1	tell our patients to stop using talcum
4 QUESTIONS BY MR. TISI: 5 Q. Dr. Smith-Bindman said she's 6 going to submit her meta-analysis to 7 publication. 8 Do you remember seeing that? 9 A. You'd have to show me where she 10 said that. 11 Q. Dr. Moorman was a coauthor on 12 the Schildkratt study, correct? 13 A. I'd have to look back through 14 the list of authors to confirm or not 15 confirm. 16 Q. Some of them wrote Health 17 Canada, as counsel pointed out, to express 18 their point of views on this in the comment 19 period, correct? 20 A. I have no idea. 21 Q. Do you have any intention, now 12 having been through this process, as you sit 23 here today, to submit your criticisms and 24 your opinions to the criticisms of your 25 fellow peers? 26 MS. MILLER: Objection. 27 QUESTIONS BY MR. TISI: 28 QUESTIONS BY MR. TISI: 39 QUESTIONS BY MR. TISI: 40 Q. Anywhere. Congress, medical 50 meetings, regulatory authorities, 51 publications, peer review, your colleagues, 52 anywhere. 53 QUESTIONS BY MR. TISI: 54 Q. Anywhere. Congress, medical 55 meliciantins, the criview, your colleagues, 56 anywhere. 57 anywhere. 58 MS. MILLER: Objection. 59 THE WITNESS: Submit where? 50 publications, peer review, your colleagues, 51 anywhere. 52 A. There's a possibility that 53 A. There's a possibility that 54 something may arise in the future and I may 55 take up that opportunity. And I don't know 56 today. 57 Q. Have you gone – have you gone 58 to your oncology department here at Hopkins? 59 Q. Have you gone – have you gone 50 Q. Gynecology? 51 A. We do have a 52 Q. Okay. If a gynecology department here at Hopkins? 52 Q. Okay. If a gynecology department here at Hopkins? 53 Q. Okay. If a gynecology department. 54 Q. Okay. If a gynecology department. 55 Q. Okay. If a gynecology department. 56 Q. Okay. If a gynecology 57 Q. Okay. If a gynecology 58 Q. Okay. If a gynecology 59 Q. Okay. If a gynecology 50 Q. Okay. If a gynecology 50 Q. Okay. If a gynecology 51 Q. Okay. If a gynecology 51 Q. Okay. If a gynecology 52 Q. Okay. If a gynecology 52 Q. Okay. If a gynecology 53 Q. Oka	2	THE WITNESS: Again, I told you	2	powder, what would you tell them?
5 Q. Dr. Smith-Bindman said she's 6 going to submit her meta-analysis to 7 publication. 8 Do you remember seeing that? 9 A. You'd have to show me where she 10 said that. 11 Q. Dr. Moorman was a coauthor on 12 the Schildkraut study, correct? 13 A. I'd have to look back through 14 the list of authors to confirm or not 15 confirm. 16 Q. Some of them wrote Health 17 Canada, as counsel pointed out, to express 18 their point of views on this in the comment 19 period, correct? 10 A. I have no idea. 21 Q. Do you have any intention, now 22 having been through this process, as you sit here today, to submit your criticisms and 23 quy or opinions to the criticisms of your 25 fellow peers? 28 MS. MILLER: Objection. 29 THE WITNESS: Submit where? 30 QUESTIONS BY MR. TISI: 31 QUESTIONS BY MR. TISI: 42 Q. Anywhere. Congress, medical meetings, regulatory authorities, publications, peer review, your colleagues, anywhere. 31 QUESTIONS BY MR. TISI: 32 Q. Anywhere. Congress, medical meetings, regulatory authorities, publications, peer review, your colleagues, anywhere. 32 Q. Okay, MR. TISI: 33 A. There's a possibility that something may arise in the future and I may take up that opportunity. And I don't know today. 34 Q. Have you gone – have you gone to your oneology department here at – or a gynecology department here at Hopkins? 44 Q. Okay, If a gynecology department. 55 Q. Okay, C. Okay, C	3	I didn't know about that.	3	MS. MILLER: Objection.
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today. Q. Have you gone have you gone 17 A. But that's what I'm saying. You asked me if I would recommend, and so 19 an oncology department here at or a 20 gynecology department here at Hopkins? A. We do have a Q. Gynecology? Q. Gynecology? A a gynecology department. Q. Okay. If a gynecology 16 asking A. But that's what I'm saying. You asked me if I would recommend, and so I'll telling you that it depends. It depends. Q. If a gynecologist came to you and said, "Doctor, you're an epidemiologist, I have women who are asking me whether or not Q. Okay. If a gynecology 24 I should they hear what's on the radio,		- · ·	15	
17 Q. Have you gone have you gone 18 to your oncology department here you have 19 an oncology department here at or a 20 gynecology department here at Hopkins? 21 A. We do have a 22 Q. Gynecology? 23 A a gynecology department. 24 Q. Okay. If a gynecology 25 A. But that's what I'm saying. 26 You asked me if I would recommend, and so 27 I'll telling you that it depends. It 28 depends. 29 depends. 20 If a gynecologist came to you 21 and said, "Doctor, you're an epidemiologist, 22 I have women who are asking me whether or not 24 I should they hear what's on the radio,				
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A a gynecology department. 23 I have women who are asking me whether or not Q. Okay. If a gynecology 24 I should they hear what's on the radio,				
Q. Okay. If a gynecology 24 I should they hear what's on the radio,		O. Gynecology?		
	22		1	
== department abled you, do you tilling to blocked == diey float what on total life to	22 23	A a gynecology department.	23	I have women who are asking me whether or not
	22 23 24	A a gynecology department.Q. Okay. If a gynecology	23 24	I have women who are asking me whether or not I should they hear what's on the radio,

120 (Pages 474 to 477)

		l .	
	Page 478		Page 480
1	aware of a potential link that's been	1	MS. MILLER: Of course.
2	discussed out there. Should I tell my women	2	MR. TISI: Can you find
3	to stop or should I tell them to continue	3	would you pull them over
4	using it?" what would you tell them?	4	QUESTIONS BY MS. MILLER:
5	Continue using it?	5	Q. We're going to be looking at
6	MS. MILLER: Objection, vague,	6	page 11.
7	and objection, asked and answered.	7	MR. TISI: I'm sorry, he just
8	THE WITNESS: So I would ask	8	started putting them away.
9	why, and it would be dependent on the	9	MS. MILLER: It's
10	answer to why.	10	understandable. I think everybody
11	QUESTIONS BY MR. TISI:	11	wants to get home for the weekend.
12	Q. If they said because there's a	12	QUESTIONS BY MS. MILLER:
13	concern that they might put myself at	13	Q. I'm looking at the bottom of
14	increased risk of ovarian cancer?	14	page of page 11 in Exhibit 31.
15	MS. MILLER: Objection. This	15	Do you recall Exhibit 31 was
16	was asked and answered.	16	shown to you earlier today?
17	QUESTIONS BY MR. TISI:	17	A. I do.
18	Q. If they said if they said	18	Q. And this is a document from the
19	that was the reason why, what would you	19	National Cancer Institute; is that correct?
20	answer would you respond to them?	20	A. That's what it appears to be.
21	A. I would say, based on the body	21	Q. The title is "Ovarian,
22	of medical evidence, there is no causal	22	Fallopian Tube and Primary Peritoneal Cancer
23	association between talcum powder and ovarian	23	Prevention," correct?
24	cancer.	24	A. Correct.
25	Q. Okay. So you'd tell them, keep	25	Q. There's a section on page 11
	Page 479		Page 481
1	dusting?	1	titled "Perineal Talc Exposure."
2	MS. MILLER: Objection.	2	Do you see that?
3	THE WITNESS: I didn't say	3	MR. TISI: It's on page 11? I
4	that. I said based on the body of	4	don't see it on page 11.
5	medical evidence, there is no	5	MS. MILLER: Page 11 of 17.
6	association, causal association,	6	QUESTIONS BY MS. MILLER:
7	between talcum powder and ovarian	7	Q. Do you see that section?
8	cancer.	8	MR. TISI: No, I don't,
9	There may be other reasons that	9	actually. Can you show me?
10	that gynecologist would or would not	10	THE WITNESS: I do.
11	recommend using talcum powder.	11	MR. TISI: I see oophorectomy
12	MR. TISI: Doctor, I appreciate	12	on page 11.
13	your time today. I have no further	13	MS. MILLER: You've got
14	questions.	14	you've got a different version than
15	Anything else? Do you have any	15	the one you used as an exhibit. It's
16	questions?	16	on page 11 of the one you used as an
17	MS. MILLER: We're discussing	17	exhibit.
18	it. I just have two questions.	18	MR. TISI: Okay. I'll have to
19	CROSS-EXAMINATION	19	argue this when we're done.
20	QUESTIONS BY MS. MILLER:	20	QUESTIONS BY MS. MILLER:
21	Q. Can you go back to Exhibit 31?	21	Q. Did counsel direct you to this
22	A. 31.	22	section of the exhibit when he was
23	Q. Okay. Can you turn to	23	questioning you about it?
24	MR. TISI: Can you wait until I	24	MR. TISI: Objection to form.
25	get my copy, Counsel?	25	THE WITNESS: Not that I
	8 7 177		

121 (Pages 478 to 481)

Case 3:16-md-02738-MAS-RLS Document 9731-8 Filed 05/07/19 Page 123 of 125 PageID: 33344

Christian Merlo, M.D., MPH

	Page 482		Page 484
1	recall.	1	exposure it has footnotes 43, 44, 45 and 46.
2	QUESTIONS BY MS. MILLER:	2	Do you see that?
3	Q. Did you see this section when	3	A. Okay.
4	you were asked questions about this document?	4	Q. Do you see that?
5	MR. TISI: Objection to form.	5	A. Yeah, I see 42 through 45, yes.
6	THE WITNESS: Not that I	6	Q. And if you go to the back of
7	recall.	7	the thing where they the back of this
8	QUESTIONS BY MS. MILLER:	8	they only looked at four studies.
9	Q. Can you read the first sentence	9	Do you see that?
10	under Perineal Talc Exposure?	10	A. What are you referring to?
11	A. Sure.	11	Q. Well, the footnotes, they look
12	"The weight of evidence does	12	at 43, 44, 45 and 46. They have four
13	not support an association between perineal	13	references: Huncharek, Terry, Gertig and
14	talc exposure and an increased risk of	14	Houghton.
15	ovarian cancer."	15	One is the Huncharek study
16	Q. Can you read the second	16	which in your footnote in your report you
17	sentence?	17	indicated you agree that there are mistakes
18	A. "Results from case control and	18	in those, right?
19	cohort studies are inconsistent."	19	MS. MILLER: Objection.
20	MS. MILLER: I have no further	20	QUESTIONS BY MR. TISI:
21	questions at this time.	21	Q. You looked at the report of
22	MR. TISI: May have it, please?	22	April Zambelli-Weiner, correct?
23	MS. MILLER: Well, don't take	23	A. I did look at that, yes.
24	his because	24	Q. Okay. And you agree that there
25	MR. TISI: Well, okay, can I	25	were mistakes in that?
	Page 483		Page 485
1	have may I have yours then?	1	MS. MILLER: Objection.
2	MS. MILLER: Well, mine is	2	THE WITNESS: The numbers may
3	marked.	3	have been off, but the general gist of
4	MR. TISI: Okay. Well, I	4	the trend was still the same, meaning
5	MS. MILLER: You don't have it?	5	the numbers didn't affect statistical
6	MR. TISI: I don't. I have the	6	significance, as I recall.
7	different copy.	7	QUESTIONS BY MR. TISI:
8	MS. MILLER: If you give it to	8	Q. And this is not this
9	me, I'll show you what page it is.	9	study studies four it has four
10	REDIRECT EXAMINATION	10	references. You have some 30
11	QUESTIONS BY MR. TISI:	11	MS. MILLER: We're out of time.
12	Q. All right. So, Doctor, first	12	QUESTIONS BY MR. TISI:
13	of all, you testified earlier you don't even	13	Q. You have some 30 references.
14	know who these authors are who did this,	14	Are you going to tell me that
15	correct?	15	they did a full causation analysis that you
16	MR. LOCKE: Objection.	16	did?
17	QUESTIONS BY MR. TISI:	17	MS. MILLER: Objection. And
18	Q. Earlier?	18	we're out of time.
19	MS. MILLER: Objection.	19	MR. TISI: You're not going to
20	THE WITNESS: It looks like	20	let him answer that question?
21 22	this is from the National Cancer	21 22	MS. SHARKO: He can answer that
23	Institute, but I don't know who put	23	one question.
23 24	this all together. QUESTIONS BY MR. TISI:	23	MR. TISI: Thank you. THE WITNESS: I don't know what
25	Q. So now in the perineal talc	25	they did here.
2.5	Q. So now in the permeantaic	23	they did nere.

122 (Pages 482 to 485)

Case 3:16-md-02738-MAS-RLS Document 9731-8 Filed 05/07/19 Page 124 of 125 PageID: 33345 Christian Merlo, M.D., MPH

	Page 486	Page 488
1	MR. TISI: Thank you very much.	1 INSTRUCTIONS TO WITNESS
2	I appreciate it.	2
3	VIDEOGRAPHER: Okay. That's	3 Please read your deposition over
4	it.	4 carefully and make any necessary corrections.
5 6	MS. MILLER: Thank you. VIDEOGRAPHER: The time is	5 You should state the reason in the appropriate space on the errata sheet for any
7	6:01 p.m., April 18, 2019. Going off	7 corrections that are made.
8	the record, completing the videotaped	8 After doing so, please sign the
9	deposition.	9 errata sheet and date it. You are signing
10	(Deposition concluded at 6:01 p.m.)	same subject to the changes you have noted on
11 12		the errata sheet, which will be attached to your deposition.
13		13 It is imperative that you return
14		the original errata sheet to the deposing
15		attorney within thirty (30) days of receipt
16		of the deposition transcript by you. If you
17		fail to do so, the deposition transcript may
18 19		18 be deemed to be accurate and may be used in 19 court.
20		20
21		21
22		22
23		23
24		24
25		25
	Page 487	Page 489
1	Page 487 CERTIFICATE	Page 489 1 ACKNOWLEDGMENT OF DEPONENT
1 2 3		1 ACKNOWLEDGMENT OF DEPONENT 2
2	CERTIFICATE I, CARRIE A. CAMPBELL, Registered Diplomate Reporter, Certified Realtime	1 ACKNOWLEDGMENT OF DEPONENT 2 3
2 3 4	CERTIFICATE I, CARRIE A. CAMPBELL, Registered Diplomate Reporter, Certified Realtime Reporter and Certified Shorthand Reporter, do hereby certify that prior to the commencement	1 ACKNOWLEDGMENT OF DEPONENT 2 3 4 I,, do hereby certify that I have read the foregoing
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